

IN THE MATTER OF:)
)
PUBLIC HEARING ON)
CANDIDATE SALARIES)
)

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BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF:)
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PUBLIC HEARING ON)
CANDIDATE SALARIES)
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Remote Hearing
Suite 206
Heritage Reporting Corporation
1220 L Street, N.W.
Washington, D.C.

Wednesday,
March 22, 2023

The parties met, pursuant to notice, at
11:00 a.m.

BEFORE :

CHAIR DARA LINDENBAUM, presiding
COMMISSIONER ELLEN L. WEINTRAUB
COMMISSIONER SHANA M. BROUSSARD
COMMISSIONER ALLEN DICKERSON
COMMISSIONER JAMES E. "TREY" TRAINOR, III

Also Present:

ACTING GENERAL COUNSEL LISA STEVENSON
DEPUTY STAFF DIRECTOR FOR MANAGEMENT AND
ADMINISTRATION, KATIE HIGGINBOTHOM, representing
STAFF DIRECTOR ALEC PALMER

P R O C E E D I N G S

(11:00 a.m.)

CHAIR LINDENBAUM: Good morning. This special session of the Federal Election Commission will please come to order. I'd like to welcome everyone to the Commission's hearing on proposed changes to FEC regulations regarding the use of campaign funds for candidate compensation.

Today's hearing will take place in a hybrid in-person and virtual format, and we are live right now on the FEC's YouTube channel. I am Dara Lindenbaum, Chair of the Commission this year. Sitting beside me on the dais today are Commissioners Shana Broussard, Allen Dickerson, Trey Trainor, and Ellen Weintraub. Our Vice Chairman, Sean Cooksey, is unable to be here. Also at the dais are Acting General Counsel Lisa Stevenson and our Deputy Staff Director for Management and Administration, Katie Higginbotham.

I'd like to thank Commissioners Broussard and Dickerson, who have resurrected our rulemaking efforts at the FEC, and particularly to Commissioner Broussard, who has advanced this important rulemaking initiative.

I would also like to thank the Office of

1 General Counsel's policy team, the FEC's Operations,
2 Technology, and Commission Secretary, and Press
3 Divisions for managing the logistics that are making
4 today happen. Your hard work and diligence are
5 appreciated and do not go unnoticed.

6 This hearing follows a petition for
7 rulemaking submitted by a former candidate for
8 Congress, Nabilah Islam, in March 2021. Running for
9 office often requires a full-time effort, and many
10 people cannot afford to have a job or pay for
11 additional childcare in order to do so. For those
12 without substantial wealth, running for office is a
13 dream and not a realistic endeavor. I'm excited to
14 work to find ways to make running for office more
15 accessible.

16 Today, we're talking about a proposed rule
17 the FEC published in the Federal Register on
18 December 12, 2022. These proposed rules aim to find
19 practical and responsible solutions for candidates to
20 use campaign funds to support themselves and their
21 families.

22 In response to this Notice of Proposed
23 Rulemaking, we have received a dozen thoughtful,
24 written comments from a range of industry groups:
25 labor unions, nonprofit organizations, political

1 committees, and recent candidates for federal office.
2 We learned so much from your comments, and we're so
3 glad many of you have decided to also join us today
4 for this hearing.

5 Now I'd like to invite my fellow
6 Commissioners to provide their opening remarks for
7 today's hearing. First, I would like to call upon
8 Commissioner Dickerson. Commissioner Dickerson?

9 COMMISSIONER DICKERSON: Thank you, Madam
10 Chair, and good morning. I also want to begin
11 somewhat similarly by thanking our Policy Division for
12 all their hard work in bringing today's event
13 together. Today's hearing builds on last month's
14 successful hearing on our audit procedures and follows
15 upon last year's successful adoption of an updated
16 internet disclaimer regulation after more than a
17 decade of false starts.

18 I also want to specifically thank
19 Commissioner Broussard and Chair Lindenbaum for their
20 leadership in resurrecting our moribund policy
21 portfolio. And I want to thank our witnesses for
22 taking time out of their busy lives to inform our
23 deliberations. Our decisions are not improved by
24 being made in a vacuum.

1 Turning to today's topic, I have read all of
2 the comments that were submitted. By and large, they
3 support an expansion of our existing regulations,
4 permitting limited salaries to pay the candidates from
5 their campaign funds. I understand the policy
6 arguments for doing so, and I anticipate we'll hear a
7 good deal about why candidates for federal office
8 should have greater freedom to pay themselves salaries
9 during their campaigns.

10 But I do think we need to remember the
11 larger context in which we act. In passing the
12 Federal Election Campaign Act and creating this
13 agency, Congress had as its primary interest, and,
14 here, I'm quoting from the Supreme Court in Buckley
15 versus Valeo, "the prevention of corruption and the
16 appearance of corruption." In the immediate aftermath
17 of the Watergate scandals, that was a key and very
18 real concern.

19 In my view, the central anti-corruption
20 innovation of the Federal Election Campaign Act as it
21 currently exists is the candidate committee. By
22 law -- this is somewhat simplified -- candidates must
23 create a single committee to manage their campaign
24 activities. The funds used in that campaign must all

1 be deposited with that committee, and none of those
2 funds may be used for personal use.

3 The idea, in other words, is to prevent
4 commingling of funds in a way that might facilitate
5 corrupt transactions and allow candidates and office-
6 holders to enrich themselves. It's an effort to
7 prevent candidates from accessing any quid and thereby
8 prevent them from entering into any quid pro quo.

9 The statute barring personal use explains
10 that any use of a contribution or donation is illegal
11 if it is used, quoting from the statute, "to fulfill
12 any commitment, obligation, or expense of a person
13 that would exist irrespective of the candidate's
14 election campaign." And it lists per se purchases
15 that constitute personal use, including a home
16 mortgage, rent, or utility payment; a clothing
17 purchase; and payment for household food items.

18 Presumably, these are just the sort of
19 expenses candidates will pay for using any salary they
20 collect from campaign funds, so I hope our witnesses
21 today will help us navigate a central legal question:
22 Why is it an explicit violation of law to pay one's
23 rent with campaign funds but acceptable to do so if
24 those funds relate to the salary?

1 Second, our Notice of Proposed Rulemaking
2 lists no fewer than six alternative ways of
3 calculating a cap on candidates' salaries, and the
4 Notice raises a number of ancillary questions,
5 including when a salary may be paid and for how long.

6 As several commenters have noted, a number
7 of these approaches would be difficult to administer,
8 and several comments suggested that candidate
9 compensation be capped at the level of pay for the
10 office sought, \$174,000, or nearly two-and-a-half
11 times the national median standard income for members
12 of Congress, or \$400,000 for the Presidency, which
13 would place a candidate in the top 1 to 2 percent of
14 earners nationwide.

15 I hope today's hearing will explore whether
16 compensation at those high levels is necessary to
17 facilitate broader candidate participation and
18 appropriate given our anti-corruption mission. And I
19 look forward to our witnesses' assistance in finding a
20 workable approach that gives respect to the law
21 Congress has instructed us to administer.

22 With those two preliminary thoughts, Madam
23 Chair, I thank you very much, and I look forward to
24 hearing from today's witnesses.

25 CHAIR LINDENBAUM: Thank you.

1 Commissioner Broussard?

2 COMMISSIONER BROUSSARD: Thank you, Madam
3 Chair. I always get in trouble, so let me make sure
4 this mic is up before they send me the personal
5 message.

6 Good morning, everyone. I'd like to thank
7 all of our panelists testifying today for taking the
8 time to be here and provide their insight and
9 experiences.

10 The issue, the ability for candidates to use
11 campaign funds for compensation while they are
12 campaigning, is very important. It has both micro and
13 macro implications. On a micro level, it's about
14 opening the possibility of running for federal office
15 for a stay-at-home parent, a disabled veteran, a young
16 American right out of school, a blue-collar worker.
17 On a macro level, it enables our democracy to become
18 more perfect by creating opportunities for our federal
19 elected bodies to reflect the current demographics of
20 our nation.

21 I'd like to especially recognize Nabilah
22 Islam, who will be speaking on the afternoon panel,
23 and thank her for submitting her petition for
24 rulemaking in 2021. Senator Islam's experiences as a
25 candidate for U.S. House of Representatives in 2020

1 kicked off this rulemaking, but I believe today we
2 will hear that her experiences, unfortunately, are not
3 unique.

4 A statistic cited in both the petition for
5 rulemaking and in the comments received noted that
6 working-class jobs, defined as manual labor, service
7 industry, and clerical jobs, make up over 50 percent
8 of the U.S. economy, yet only 2 percent of the members
9 of Congress have working-class backgrounds.

10 Commenters noted that individuals with
11 working-class backgrounds may have less flexible jobs
12 and work schedules that do not easily accommodate
13 campaigning than those at a higher echelon, and these
14 individuals oftentimes have less accumulated wealth,
15 which can result in a candidate deciding to forego
16 income while campaigning.

17 Multiple commenters in response to the 2002
18 final rules and the current NPRM emphasize that
19 incumbent members of Congress running for reelection
20 or election to another office continue to receive
21 their full salary and benefits while they're
22 campaigning.

23 In short, there are real disparate barriers
24 to entry for many Americans to run for office. These

1 barriers have a direct impact on the diversity in our
2 elected representatives.

3 I'm excited that today we're going to hear
4 from candidates and office-holders, academic
5 representatives of labor organizations, think tanks,
6 and party committees. Collectively, they bring legal
7 expertise, policy perspectives, and personal
8 experience, all of which are invaluable as the
9 Commission works on final rules.

10 I'm grateful to be able to hear from each
11 panelist today, and I'm looking forward to working
12 together with my colleagues as we complete this
13 important rulemaking. Thank you.

14 CHAIR LINDENBAUM: Thank you.

15 Commissioner Trainor?

16 COMMISSIONER TRAINOR: Thank you, Madam
17 Chair. You know, I also want to thank the staff for
18 taking the time to put together this hearing. I
19 definitely want to thank the witnesses for taking
20 their time to come in and enlighten us with your
21 thoughts. And most importantly, I want to thank the
22 people who publicly commented. I think that's the
23 most critical thing that we as Commissioners see, is
24 the comments that come in. They give us information

1 and details that we can actually dig into, so I
2 appreciate that.

3 I want to echo a little bit what
4 Commissioner Dickerson said with regard to where we
5 are as far as the state of the law. In preparing for
6 this hearing, I went back and re-read part of The
7 Federalist, and when you look at somewhere around the
8 '50s, '60s range, the authors there talk about the
9 legislature being one that's very close to the people
10 and one where legislators would live under the laws
11 that they made and go back.

12 And when we look at the history of our
13 country, prior to the Civil War, you saw legislators
14 who only served, at most, two terms. It's really only
15 since the rise of permanent committees in Congress
16 that we've seen the continual reelection of
17 Congressmen to office, and I think that's part of what
18 gives rise to the disparity that Commissioner
19 Broussard was talking about, is this perpetual need to
20 gain seniority, which means that we have, really, in
21 front of us a novel, legal question.

22 But, unfortunately, I don't think that the
23 Federal Election Commission is the place where this
24 conversation ought to be taking place. This is a
25 question, I think, that Congress has to address if it

1 is, in fact, something that is important because, for
2 me, the salaries that we currently allow under our
3 regulation are the epitome of personal use, and I
4 think we're far beyond the statutory limits that we
5 have right now with our current regulations, and I
6 think pushing those out even farther puts us in even
7 more legal jeopardy.

8 So I'm very interested in the comments that
9 we have today. I hope that having this public hearing
10 will allow for a larger public conversation about
11 this, and appreciate the time, Madam Chair.

12 CHAIR LINDENBAUM: Thank you.

13 Commissioner Broussard -- I mean, sorry,
14 Commissioner Weintraub?

15 COMMISSIONER WEINTRAUB: I take that as a
16 compliment, and I am happy to join and endorse the
17 eloquent comments of my colleague, Commissioner
18 Broussard. I'm delighted that we're here today to
19 consider this important topic. I want to thank, like
20 my colleagues, all of the commenters.

21 I want to particularly thank the petitioner,
22 Ms. Islam, now Georgia State Senator Islam, who is in
23 a sense responsible for all of us being here today.
24 We were unable to respond in time in 2020 to her
25 advisory committee request regarding paying for

1 healthcare with campaign funds, but she persisted and
2 filed the rulemaking provision that started the
3 process we are all here to discuss today.

4 I see this rulemaking as, in a sense, a
5 continuation of a series of decisions that the
6 Commission has made over the last number of years,
7 particularly focusing on a number of areas in which we
8 heard about childcare expenses being paid for with
9 campaign funds. I'm proud of those decisions, and I
10 want to thank in that context Ms. Shirley, who
11 submitted one of those advisory committee requests and
12 is with us today as a witness.

13 I think the Commission has a real
14 opportunity to improve on its previous work in this
15 area and draft a candidate salary regulation that the
16 candidates can use effectively.

17 When the Commission set these rules in 2002,
18 they put tight restrictions on the salaries candidates
19 could pay themselves. They were right to be cautious
20 at the outset, and I say as somebody who has
21 throughout my career been a fierce defender of the
22 personal use restrictions and a fierce enforcer of
23 those restrictions that I believe that these rules are
24 consistent with those restrictions. They have been in

1 effect for, as I said, over 20 years, and they have
2 never been challenged.

3 But what we've seen over the last 20 years
4 is that the Commission drew the rules perhaps a little
5 too tightly. The salary caps and time limits that
6 were imposed have made it difficult for candidates to
7 usefully avail themselves of this regulation, and the
8 structure of the salary caps tilts in favor of
9 candidates who earned higher salaries before running
10 for office. So one of the key questions for us to
11 answer here today and as we move forward with this
12 rulemaking is, what is the appropriate salary for a
13 candidate? Should it vary based on previous
14 employment or location? We do need to guard against
15 potential fraud, but is there any reason to think that
16 a teacher, a plumber, or an at-home parent isn't as
17 trustworthy as a banker or a lawyer?

18 The time limits on the salaries have also
19 proved for some to be unworkable because they simply
20 couldn't run for office within the time period that
21 they could draw a salary.

22 So now we're here to reexamine these
23 regulations, with an eye towards striking the right
24 balance between usefulness and preventing abuse. And
25 as we discuss all of this, it's worth keeping in mind

1 that none of this is taxpayer funds. Every dollar
2 that a candidate might pay themselves in salary is a
3 dollar they had to raise themselves, and every dollar
4 that a candidate might pay themselves is a dollar that
5 they can't use on paid media or field work and staff
6 to win the race, which is actually the point of the
7 endeavor.

8 And this gives candidates plenty of reason
9 to be judicious in what they pay themselves, and all
10 of it will be disclosed. Candidates have to answer to
11 their opponents, the public, and the press for drawing
12 a salary.

13 I want to thank our policy staff for their
14 hard work in helping us to get the NPRM together for
15 this rulemaking. I think it presents the options
16 we're considering quite clearly. We have heard in the
17 comments from a range of organizations, from labor
18 organizations to the National Federation of Business,
19 from the DCCC and the NRCC, and all supported our
20 expanding in some fashion the ways that candidates can
21 draw a salary while campaigning.

22 And I think many commenters have emphasized
23 the point that Commissioner Broussard made earlier
24 that this will expand the range of individuals who can
25 seriously consider running for office and who will

1 ultimately make us a hopefully more representative
2 democracy and we'll have office-holders who better
3 represent the range of experience in the population.

4 Now all of our commenters agreed that we
5 should do something. They didn't agree on every
6 detail, but we don't usually see that degree of
7 agreement among commenters from such diverse
8 perspectives, and I hope that will give us some
9 momentum to bring this project across the finish line.

10 I am really looking forward to hearing what
11 the witnesses have to tell us, and I thank everyone
12 for participating. Thank you.

13 CHAIR LINDENBAUM: Thank you all.

14 All right. As for the logistics, we have a
15 total of 11 witnesses, and there will be two panels.
16 Each panel will have a mix of in-person and virtual
17 participants. At the beginning of each panel, the
18 witnesses will provide up to five minutes of opening
19 remarks, and following the remarks, the remaining time
20 will be reserved for question-and-answer. And the
21 first panel will start now. The second one will start
22 at 2 p.m., after the lunch break, with the ultimate
23 goal of ending today's hearing by 3:45.

24 So we're going to start with our first
25 panel. Before I introduce the first speaker, I want

1 to ask everybody who's here in person to speak
2 directly into the microphone. Our court reporter, who
3 is transcribing the hearing, is with us virtually, so
4 speaking directly into the microphone assures us that
5 we will have an accurate transcription of your
6 remarks.

7 For those who are joining us virtually,
8 please keep your Zoom chat open. We'll use that chat
9 to notify you when time is running out. Thank you.

10 And with that, our first panel is going to
11 kick off. We have a little bit of a change on how
12 we're going to do this one. Our first panelist is
13 United States Congressman Maxwell Frost from Florida.
14 He's here to provide opening remarks, and he'll be
15 available for a few questions afterwards. So,
16 Congressman Frost, welcome, and the floor is yours.

17 CONGRESSMAN FROST: Well, thank you so much,
18 and thank you to all the Commissioners for allowing me
19 to testify today on the petition for rulemaking to
20 improve candidate salary rules.

21 My name is Maxwell Alejandro Frost. I'm a
22 freshman member of the United States Congress,
23 representing Orlando, Florida's 10th Congressional
24 District, the community that's raised me in central
25 Florida.

1 Less than four months ago, I was a candidate
2 myself, and so I have firsthand experience with the
3 struggles of being a candidate but also being a
4 working-class candidate.

5 Prior to filing my paperwork for Congress in
6 August of 2021, I was working for the national
7 organization, gun violence prevention organization,
8 March for Our Lives, as the National Organizing
9 Director, and, for someone my age, I was pulling in a
10 generous salary. But I quickly realized that in order
11 to run a competitive race, I'd have to quit my job,
12 give up my salary, and devote my 110 percent self to
13 the campaign.

14 And so I put aside savings and planned to
15 work part-time as an Uber driver but quickly realized
16 that the savings didn't last, especially with the
17 rising rent costs in Orlando and the cost of living,
18 and I found out that I couldn't find enough hours in
19 the day to run for Congress and also drive Uber, which
20 was unsustainable in and of itself. I mean, I'd be
21 campaigning from 8 or 9 a.m. in the morning to 10, 11
22 p.m. at night, go Uber until 2 a.m., and it's just
23 not, you know, it's not sustainable for folks.

24 And even though I quit my job and started my
25 campaign in August of 2021, under the current rules, I

1 wasn't eligible to take a paycheck from my campaign
2 until mid-June of 2022.

3 And current colleagues of mine with earlier
4 primaries were able to draw a salary sooner because
5 that was the qualification period, but it depends on
6 the state you're in, with some as early as January,
7 but mine wasn't until June, which creates a not
8 equitable system.

9 You know, once I won my election, I stopped
10 being able to receive a paycheck from the campaign for
11 November, December, and my first paycheck for being a
12 member of Congress doesn't arrive until the beginning
13 of February, and so, in the course of a year and a
14 half, I had only received a paycheck for about four
15 months of that year and a half.

16 In that time period, I ran up a lot of debt
17 that I wouldn't have had if I didn't run for office,
18 and the consequences of that debt was a very damaged
19 credit score that I still have and that I'm still
20 working on.

21 You know, since being elected, you know,
22 I've made news for being the first Gen-Z member of
23 Congress to be elected and for being denied an
24 apartment I applied to because of my low credit score,
25 and I've been praised for the first part and

1 criticized for the second part, and I'm here to tell
2 you that these two things are intertwined.

3 I did overcome the odds, but there are often
4 consequences when you participate in a system that's
5 not set up for you. Voters regularly share that
6 they'd like candidates from all walks of life, and if
7 we make these easy changes to the system, we can
8 ensure that more people can participate in democracy
9 in voting but also being candidates.

10 And so I'm asking the Commission to first
11 set a daily rate that is determined by taking a
12 hundred percent of the minimum office-holder's salary
13 and dividing that amount by 365 days per year. Basing
14 the cap off of previous income levels or a minimum
15 wage that varies across states or even the 50 percent
16 of the minimum office-holder salary, I think it
17 overcomplicates the process and disadvantages working-
18 class people without large savings.

19 And so the way the system works now,
20 including reducing candidate compensation for other
21 earned income, has not seen widespread abuses, more
22 people running for office just to take a salary.

23

24 Second, allow candidates to take
25 compensation for benefits that the candidate also

1 provides a staff, along with safeguards. Potentially
2 losing health insurance and no longer being able to
3 provide dependent care are two of the largest
4 impediments for working-class people running for
5 office.

6 The third one is candidates should be able
7 to draw a salary the moment they begin their campaign.
8 Working people don't have the luxury of going without
9 a salary until mid-June in Florida. And so, if they
10 want to be competitive, they can't hold off announcing
11 for that long. Part of the reason I won is because I
12 started early. Part of the reason I won is I
13 dedicated my entire time to that campaign.

14 And I don't have a family that I have to
15 support. I was able to slum it out for a year and a
16 half, but it was difficult. I put myself in a bad
17 financial place, but I'll be honest, if I had a family
18 to take care of, I probably would have had to drop out
19 midway through the race. And people know my story
20 because I was successful, but imagine all the other
21 stories of people dropping out of races across this
22 country that we'll never even hear of because of the
23 way the system is built.

24 And then fourth, candidates who win should
25 be able to draw a salary until they begin the job that

1 they've won. You know, part of the problem is
2 campaigns oftentimes act as a filter, and working-
3 class people can't really get to the end of it.

4 But even if you win, in my case and a lot of
5 other cases we've seen, it becomes difficult to even
6 be seated, right, find a place in D.C. and be able to
7 start your job. We want our candidates that become
8 members of Congress to be in the best place
9 financially in taking care of their families and
10 having a place to live so they can focus on their job,
11 which is representing their constituents.

12 You know, after winning my election, I
13 immediately was summoned to D.C. in less than a week
14 to begin taking orientation classes, to start the
15 process of setting up my office, and having that
16 anxiety of not knowing where I was going to live, if I
17 would have a place to live, it did impede on my
18 ability to focus 110 percent on my job.

19 And I think it's for the betterment of the
20 constituents and our government if we ensure that our
21 public servants have a place to live and have the
22 money that they need to live so they can focus on
23 serving the people. And with that, I yield back.
24 Thank you so much.

1 CHAIR LINDENBAUM: Thank you so much for
2 your comments, and I'll just start by thanking you for
3 being so open and transparent about this issue. One
4 of the things that we've or at least that I've
5 certainly seen as we've gone through this and through
6 the years is that people often don't talk about their
7 lack of money. Sometimes it's viewed as, you know,
8 embarrassing or there's some lack of power associated
9 with it, but, instead, what we are seeing is new
10 members of Congress talking about this issue, and that
11 has also helped spark this rulemaking.

12 So thank you. I hope that your comments
13 will also encourage others to be transparent and open
14 and honest about the process. Putting a face to what
15 we are trying to do here is incredibly helpful.

16 With that, I know you have a couple of
17 minutes, so, Commissioners, if anyone has any
18 questions that they would like to ask?

19 COMMISSIONER DICKERSON: Madam Chair?

20 CHAIR LINDENBAUM: Commissioner Dickerson?

21 COMMISSIONER DICKERSON: Thank you.

22 Congressman, thank you very much. That was
23 very helpful, and I think it gets at one of the issues
24 here, which is the timing of this, which I think is
25 important.

1 My question is almost amusing. I mean, as I
2 tried to flag in my opening, you know, part of the
3 concern here isn't necessarily a disagreement on what
4 an ideal policy outcome would be but a concern about
5 what the Commission's legal authority is that's been
6 given to us by Congress, a truly legal concern.

7 So I guess my question to you is, you know,
8 given your experience, do you have any interest or
9 anticipation of sponsoring legislation that would
10 accomplish what you set out as a possible policy
11 outcome here? Or do you have views on the authority
12 of the Commission under the existing statute absent a
13 change in the law?

14 CONGRESSMAN FROST: Yeah. Well, thank you
15 so much for your question, Commissioner, and I believe
16 that the Commission does have the authority to make
17 these changes and the changes that would be useful for
18 both the constituents at home and our democracy in
19 general, and so I'm hoping that the Commission will be
20 able to make these changes so that way we have a more
21 accessible democracy.

22 COMMISSIONER DICKERSON: Thank you.

23 CHAIR LINDENBAUM: Commissioner Broussard?

24 COMMISSIONER BROUSSARD: Thank you, Madam
25 Chair.

1 This question -- well, thank you,
2 Representative. I appreciate the time that you've
3 taken for this, and I know you're busy working for the
4 people. You pretty much answered all my questions,
5 but the question I have is that you made reference
6 that the ability for an office-holder or elected
7 individual to be able to collect a salary until they
8 take office.

9 What about in the opposite, for someone who
10 has run for office and is not successful? Would you
11 see it reasonable to be able to collect some salary
12 for a period, a winding-down period? Do you have any
13 perspective on that?

14 CONGRESSMAN FROST: I think that's a great
15 idea, and, you know, I was actually just on a -- I
16 just did a CODEL to Japan and was able to speak with a
17 lot of the members of the Japanese National Diet, and
18 we had conversations about their races and the way it
19 works in Korea. They have an interesting thing in
20 Korea where, whether you win or lose, if you reach a
21 certain percentage of -- there's a threshold for the
22 vote share -- you're able actually to be reimbursed
23 for certain expenses and have some money come in
24 afterwards even if you lose.

1 And this is a great point because I'll tell
2 you all there's a light at the end of the tunnel for
3 me now because I'm collecting a great salary and I
4 will be able to pay off my debts. I will be in a
5 better place at the end of two years.

6 If I wouldn't have been successful, I would
7 be in a very, very, very bad situation right now
8 financially and in my personal life just because I
9 wanted to, you know, take the step to put my name
10 forward to serve my community.

11 And so I think that's a great point, and I
12 think that's a great solution. I think people should
13 be able, even if they lose, to have something come in
14 so they can have the help that they need.

15 CHAIR LINDENBAUM: Thank you. With that, we
16 will let you get back to your work. Thank you so much
17 for taking the time.

18 CONGRESSMAN FROST: Thank you so much, and
19 thank you to all the Commissioners. Have a great day.

20 CHAIR LINDENBAUM: Next up, we have Laurence
21 Gold, an attorney at the law firm of Tristor, Ross,
22 Schadler & Gold. He is here with us in person.

23 Mr. Gold, just a reminder to keep your mic
24 close, and the floor is yours.

1 MR. GOLD: Thank you, Madam Chair, and thank
2 you for the opportunity to testify today on behalf of
3 the AFL-CIO and to reflect the views of our commenting
4 partners, AFSCME, AFT, NEA, and SEIU. Together, these
5 labor organizations represent 17 million working men
6 and women throughout the United States in virtually
7 every occupation there is, and all of these
8 organizations have sponsored programs to encourage
9 their members to run for office at all levels.

10 In our experience, persisting barriers to
11 candidacy have included not just the financial cost of
12 a campaign itself but also the opportunity cost of
13 having to maintain a full-time job while campaigning,
14 especially against much wealthier primary opponents
15 or, especially at the federal level, incumbents, who
16 are able to campaign as much as they wish without
17 regard to the Act's prohibition against doing so on
18 paid working time.

19 This disadvantage in available campaign time
20 has no relationship to the merit of the candidate, and
21 incumbency remains a powerful campaign advantage.
22 Just look at 2022: 97.5 percent of all House
23 incumbents on the November ballot won. Just nine of
24 these 365 members lost their election. And no

1 incumbent Senator lost his or her election last year.
2 The last time that occurred was 1914.

3 Just this morning, I read a Politico story
4 titled "National Republicans Are Looking for Senate
5 Candidates who are Filthy Rich." It quoted Senator
6 John Kennedy: "In politics, as in life, money doesn't
7 buy happiness, but poverty doesn't buy a damn thing."
8 Well, you can be much better off than poor and still
9 not afford to surrender a paycheck in order to run for
10 a Senate or a House seat.

11 And Republicans don't have a monopoly on
12 this kind of candidate recruitment. When I
13 participated on behalf of the AFL-CIO in the initial
14 rulemaking on this issue 21 years ago, the central
15 issue was whether a campaign paying a salary to its
16 candidate constituted an impermissible personal use.

17 The Commission correctly resolved that
18 question with a decisive no, and its rationale for
19 doing so remains sound. A salary paid to a candidate
20 would be in return for the candidate's services
21 provided to the campaign, and the necessity of that
22 salary would not exist irrespective of the candidacy.

23 No intervening experience or law undermines
24 that conclusion or the wisdom of a formal rule to
25 concretize it in order to ameliorate the Act's

1 necessary prohibition against employer subsidization
2 of an employee's candidacy by permitting the campaign
3 itself to become a substitute employer.

4 The issue today is whether to change the key
5 parameters of the current rule, so let me turn to
6 those specifics and summarize our written comments
7 about them.

8 First, the duration of compensation. The
9 current rule recognizes the period from the state law
10 primary filing date to the earlier of the end of
11 candidacy or the general election.

12 We support a period extending from the
13 filing of either the candidate's Form 2 Statement of
14 Candidacy or Form 1 Statement of Organization until
15 the earlier of the end of the candidate's active
16 candidacy or their office swearing-in.

17 The primary filing date is simply too late
18 to permit meaningful use of a campaign salary, as
19 Representative Frost just explained. Campaigns often
20 begin formally even in the year before an election, as
21 his did. It's better to peg the beginning date to
22 that reality.

23 A survey of the 2022 primary filing dates
24 demonstrates why the current rule starts the
25 permissible salary period too late. On average, most

1 pre-primary filing dates occur about three months
2 before the primary election. Specifically, 36 states
3 last year set that filing date two to three months
4 before the primary, 13 three to four months before the
5 primary, and a smattering even earlier.

6 And looking at the election calendar
7 overall, 21 of those primary filing dates occurred in
8 March, eight in April, four in May, nine in June,
9 three in July, and just six before March.

10 And extending the potential salary period
11 for a winning candidate from the general election
12 until the candidate assumes office on, usually,
13 January 3, recognizes the unlikelihood that a winning
14 candidate will secure ethically and politically
15 acceptable employment during this brief interval.

16 Second, the amount of compensation. The
17 current rule caps a candidate's salary at the lesser
18 of the candidate's earned income during the calendar
19 year preceding candidacy or the minimum salary of the
20 incumbent federal office-holder and, in either case,
21 less any actual earned income of a candidate otherwise
22 during the salaried campaign period.

23 We support untethering the calculation from
24 the candidate's own earning experience and setting
25 simply a cap at the minimum annual Congressional

1 salary at \$174,000, and, like now, with an offset of
2 any actual earned income of a candidate otherwise
3 during the salaried campaign period.

4 This proposal has these virtues. It's
5 uniform across all jurisdictions, just as the
6 Congressional salary is set. It's clear, workable,
7 and easy to administer and enforce. It does not
8 disadvantage individuals with low means who earn
9 little, are unemployed, who are caring for loved ones,
10 who are students, or experienced similar low-paying
11 situations during the previous year.

12 The current rule simply perpetuates the
13 problem that gave rise to the rule in the first place.
14 It deters potential fraud with respect to proving
15 private earnings, and it recognizes that there is no
16 objective standard to measure a particular candidate's
17 true opportunity cost of candidacy or what is "fair
18 compensation" for candidacy activities, where there's
19 no actual historical marketplace as a point of
20 reference.

21 And as with any salary, the political
22 context of a particular campaign will influence the
23 decision as to whether to pay a salary, when to do so,
24 and how much to pay relative to the cap.

1 Finally, non-monetary compensation:
2 Employee benefits, such as health and life insurance,
3 retirement funding, and dependent care costs. Under
4 the current rule, none are permissible, except for
5 several advisory opinions on dependent care costs that
6 are "the direct costs of campaign activity."

7 The latter are not inherently employment-
8 related and are available also to incumbents. We
9 support codifying dependent care costs, as explained
10 more fully in our comments.

11 With respect to health, life, retirement,
12 and the like, we support the principle that benefits
13 that are typically connected to employment should not
14 be considered personal use of campaign funds any more
15 than the salary itself. The fact is that a majority
16 of Americans still secure these benefits as an
17 incident of employment, particularly health insurance,
18 and enabling a campaign to provide these benefits
19 would be consistent with setting the permissible
20 salary at the Congressional standard.

21 There's no sound reason to quantify the
22 value of those benefits, cap them, or seek parity or
23 any other relationship with those incident to
24 Congressional employment. Such an undertaking would
25 make the regulation unduly burdensome for campaigns

1 and for the Commission, with little, if any, public
2 reward.

3 There are innumerable kinds of benefit
4 policies. A campaign's access to any of them is
5 limited in any event by its temporary nature, and all
6 payments for benefits will be publicly disclosed and
7 subject to the same political marketplace discussed
8 above.

9 We do support one restraint, as proposed in
10 compensation definition alternatives A and B in the
11 NPRM, the provision of an employment benefit to the
12 candidate should be permissible only if the campaign
13 also provides it to its staff as both a hedge against
14 abuse and a guarantee of some regularity. And that's
15 how many employee benefit plans lawfully have to
16 operate anyway. The rule should provide, though, that
17 if the candidate is the only employee, as could be the
18 case, then the campaign nonetheless may provide
19 benefits to the candidate alone.

20 Again, I appreciate the opportunity to
21 appear and welcome your questions and discussion.
22 Thank you.

23 CHAIR LINDENBAUM: Thank you.

24 Next, we have Jacquelyn Lopez, an attorney
25 with the Elias Law Group. She's with us in person.

1 Ms. Lopez, a reminder to keep your
2 microphone close.

3 MS. LOPEZ: All righty. Good morning. I
4 want to start by thanking the Commission for allowing
5 me to join in this incredibly important conversation.
6 I'm here today on behalf of the Democratic Senatorial
7 Campaign Committee, which is a national political
8 party committee dedicated to electing Democrats to the
9 United States Senate.

10 It is a core belief of the DSCC that the
11 strength of our democracy depends on the ability of
12 Americans from every socioeconomic background to run
13 for elected office. Current Commission regulations
14 make it harder, if not impossible, for lower-income
15 Americans to run for office and they should be
16 amended.

17 I will say personally that I have served as
18 counsel for over 40 candidates for United States
19 Senate. I have seen time and time again how the
20 demands of a campaign are only increasing, and it has,
21 quite frankly, become a full-time job.

22 I've also been a part of very hard
23 conversations with potential candidates, where I tried
24 to explain that the current regulations severely limit
25 their financial ability to run for office. Those are

1 painful conversations to have as a lawyer with someone
2 that you think should have a shot to run for office.

3 So, with all that in mind, I'm here today to
4 advocate for a couple specific changes to the
5 regulations. A candidate for federal office should be
6 able to draw a salary for the entire candidacy
7 process, from when they trigger candidacy, even if
8 that means 15 days before the Form 1 is filed -- I
9 would slightly amend that request because that 15-day
10 period is very hectic, it's short -- and up until when
11 they are sworn in or they are defeated.

12 The total amount of compensation should not
13 be tied to prior income levels or to the minimum wage.
14 Instead, the cap should simply be tied to the minimum
15 salary for the office sought. This mechanism evens
16 the playing field and ensures that candidates are not
17 treated differently depending on where they live, what
18 their state minimum wage is, or their past employment
19 history, but still guards against abuse.

20 A candidate should be able to receive the
21 same healthcare benefits provided to campaign staff,
22 as well as dependent childcare in keeping with the
23 Commission's advisory opinions on that topic. Neither
24 benefit should count against the compensation cap.

1 Thank you so much for having me today. I'm
2 very grateful to the Commission to take on this
3 message.

4 CHAIR LINDENBAUM: Thank you so much.

5 Next up, we have Neil Makhija, the Executive
6 Director of Indian American Impact and a Law Professor
7 at the University of Pennsylvania. He is
8 participating with us virtually.

9 The floor is yours.

10 MR. MAKHIJA: Hi. Thank you so much for
11 having me. I very much appreciate this opportunity.
12 Thank you in particular to Senator Islam for raising
13 this petition now two years ago.

14 My name is Neil Makhija. I am a lecturer at
15 the University of Pennsylvania Law School, currently
16 on leave. I serve as Executive Director of Indian
17 American Impacts, supporting training candidates who
18 are running for office, as well as helping advise them
19 in campaigns generally.

20 I've been a candidate myself. I'm actually
21 currently a candidate for a local office not under the
22 jurisdiction of this agency for County Commissioner in
23 Montgomery County, Pennsylvania. Today, I speak in
24 the capacity, though, as someone who has advised,
25 really, hundreds of candidates and being someone who

1 is familiar with what candidacy entails in all of its
2 complexity.

3 And I would agree with all of the folks who
4 have testified thus far and really want to emphasize
5 two things. One is that the proposed regulations
6 would broaden the pool of potential candidates for
7 office in both the diversity in many different
8 respects, but, as has been stated, more individuals
9 from working-class backgrounds who would be able to
10 run for office would be made possible if we amend the
11 current regulations in line with what has been said by
12 those who have just testified.

13 It would also not just be a service to those
14 candidates, though. I think what's important is that
15 it's a service to the voters because being a candidate
16 is very much a job, and the candidates are, in fact,
17 informing the voters of their choice, and our current
18 system really puts that burden on the candidates. And
19 so, by allowing them to be treated as employees, as
20 staff of their campaigns, we're really respecting that
21 and doing a service to the voters.

22 So President Kennedy has already been quoted
23 today in a different context, but I will say one quote
24 that I often teach in my class at Penn at the start of
25 the semester is that President Kennedy said this in

1 1960, but, "For a politician to make a dent in the
2 consciousness of a great majority of people is a long
3 and laborious job, particularly in a primary, where
4 you do not have a party label."

5 When you think of the money that well-known
6 brands like Coca-Cola, who everybody already knows,
7 continue to put into advertising day after day, you
8 realize how difficult it is to become identifiable as
9 a political figure, and this requires a willingness to
10 submit yourself to long, long labor.

11 And as we'll hear, I expect, from the next
12 panel of candidates, you'll recognize that candidates,
13 because they have that burden of explaining themselves
14 to the voters, explaining the choice that the voters
15 have, they have to show up at every hour of the day in
16 which people in their communities are awake. They are
17 doing work that is far beyond, in fact, what an
18 incumbent might be expected of in that respect, and
19 they're competing with a commercial advertising
20 environment in which they're trying to reach voters
21 for a very good reason, to give them information on
22 their choice, and yet they don't have nearly the
23 resources of the kind of companies that are making a
24 profit through the same mediums of communication that
25 are quite costly because of that environment.

1 And so we have a situation where we have
2 this tremendous burden that is placed on candidates to
3 inform the voters, and what I think is important is
4 that we recognize that this is, in fact, a service to
5 those voters.

6 Now some of the issues that I have been
7 raised I want to address directly. One, of course, is
8 on the issue of the salary and what that should be. I
9 think it's important to recognize that we are not
10 setting a floor. This is a cap. And there are both
11 practical checks that have been recognized and
12 political checks on what the salary would actually be
13 for any one candidate.

14 So, one, a candidate has to decide, do I
15 want to, you know, spend on a salary, whether for
16 myself or my staff or others, or do I want to spend
17 resources on reaching voters, which is ultimately the
18 most important thing? And every candidate who is
19 advised would be told, you know, to try to spend 80
20 percent of their campaign on reaching voters.

21 The second thing is that, you know,
22 currently, on the risk of fraud, there are no, you
23 know, regulations of this sort putting caps on how
24 much is paid to political consultants or others who
25 receive expenditures from campaign committees. So

1 that risk is the same whether or not we change the
2 regulation to allow candidates to earn a salary for
3 their work. So I think it's important to recognize
4 that the risk does not significantly change in that
5 regard.

6 And in terms of duration, I would just add
7 one final point on that, which is that campaigns today
8 last longer than ever. The filing deadline is merely
9 one point at the start of a long process of trying to
10 reach those voters in what President Kennedy had said
11 long ago was a "long and laborious process" for which
12 I think it's a respectable thing that we have many
13 candidates who are engaging in, and it's a service to
14 the voters.

15 CHAIR LINDENBAUM: Great. Thank you so
16 much.

17 Next is Brad Smith from the Institute for
18 Free Speech. He is participating with us virtually.

19 Mr. Smith, welcome back, and the floor is
20 yours.

21 MR. SMITH: Well, thank you, Madam Chairman.
22 Thank you, Commissioners. I want to say hello to any
23 of my other old friends who are out there that I can't
24 see. I do see, like, Roy Lockett's name up there, and
25 there may be others.

1 Long before Buckley v. Valeo, every state
2 allowed campaign finance contributions but prohibited
3 bribes. So what's the difference between the two?
4 It's fairly complicated, but, in the end, it pretty
5 much boils down to personal use. Campaign
6 contributions can only be spent to campaign for office
7 and not to personally enrich the office-holder.

8 Now, back in 2002, I voted with some
9 misgivings, but I voted for a regulation, the
10 regulation that's up today, that first allowed
11 candidates to use campaigns to pay themselves
12 salaries.

13 In the years since, the Commission has used
14 advisory opinions to further erode the limitations on
15 the personal use of campaign funds. But our action 20
16 years ago was a mistake, and rather than compound it
17 by passing this proposed rule, the Commission, in
18 fact, should reestablish clear and firm limits on the
19 personal use of campaign funds and, indeed, probably
20 repeal the current section.

21 The main reason for this is simply one of
22 statutory authority. The Commission is prohibited
23 from authorizing candidate salaries. How so? 52
24 U.S.C. 30114(b) is about as clear a statute as one can
25 find: "A contribution shall not be converted by any

1 person to personal use." I don't know what you can
2 call giving campaign funds to a candidate to cover
3 personal living expenses other than a conversion to
4 personal use and thus directly prohibited by the
5 statute.

6 As in 2002, the commentators favoring the
7 proposed rule raised arguments about fairness and
8 helping candidates of modest means, and such arguments
9 have, you know, some currency. I agree with
10 Commissioner Dickerson, from a policy standpoint,
11 there are certain things to be recommended here. But
12 none of these comments have anything to do with the
13 statute, which is why I presume that none of the
14 written comments, nor any of the oral comments so far,
15 except in both cases from my long friend and colleague
16 on this panel, Larry Gold, have even attempted to
17 discuss what the statute actually prohibits or allows.

18 And with respect to Larry's legal acumen, I
19 just think his analysis in this case is pretty clearly
20 wrong. When the law states that campaign funds may
21 not be used for expenses that exist irrespective of a
22 candidacy, it means that you can only spend funds on
23 expenses that exist only because of the campaign:
24 campaign expenses, fundraising, advertising, a

1 campaign headquarters, field office, polling, campaign
2 travel.

3 And to say that the candidate is working for
4 the campaign seems a vast confusion. Everywhere else
5 in the statute we assume that the candidate and the
6 campaign are the same in exception of contributions,
7 in making expenditures. In all of these ways, they
8 are one and the same. The campaign does not exist but
9 for the candidate and is simply, really, an accounting
10 device that enables us to place contributions in and
11 expenditures out.

12 Accordingly, § 30114(b) specifically lists
13 certain prohibited expenses, including, among other
14 things, and again I quote, "a home mortgage, rent, or
15 utility payment, a clothing purchase, a non-campaign-
16 related automobile expense, or any household food
17 items."

18 These things are obviously more difficult
19 for non-incumbents and candidates of modest means to
20 cover, but they're simply excluded. Simply calling
21 them "salary" or "fringe benefits" doesn't change the
22 fact that this proposed rule anticipates the direct
23 conversion of campaign funds to pay for those and
24 several other specifically prohibited uses.

1 And I totally understand why a candidate,
2 such as Representative Frost, would have liked to have
3 used his campaign funds to pay himself over \$200,000,
4 plus fringe benefits, while running for office, but
5 that's not allowed by the law.

6 The section exists to prevent campaign
7 contributions from going into a candidate's pocket to
8 defray personal expenses, whether luxuries, such as a
9 nice suit in which to campaign, a massage to relax
10 before the big debate, teeth whitening to look good on
11 the campaign trail, or necessities such as food, rent,
12 insurance, or childcare. And that's the fundamental
13 difference between campaign contributions and bribes.

14 Now a second related reason is agency
15 competency. Once you begin fudging on personal use in
16 the way that you're anticipating and that we've
17 already done and for which I deserve some blame,
18 already the Commission is asked to approve campaign
19 funds to provide insurance, to pay for babysitters and
20 nannies, to pay for elder care, to pay personal legal
21 expenses.

22 One alternative would have you determine the
23 maximum candidate salaries with an eye on actually
24 equalizing candidate incomes. Another wants you to
25 decide what is a reasonable living wage, as if you

1 were the Wage and Hour Division of the Department of
2 Labor rather than the Federal Election Commission.

3 Why not allow candidates to pay for
4 haircuts, better-looking clothes, and better food to
5 keep the candidate's energy up, and fundraising or
6 recharging time at the country club, all of which
7 could be helpful to a campaign and all of which are a
8 burden on candidates of modest means.

9
10 But maybe you already agree with that.
11 After all, all of those examples would be legal under
12 this proposed rule as long as they were simply
13 described as "fringe benefits." But, as they say, a
14 rose by any other name.

15 Lost here and in the Commission's general
16 loosening of personal use rules over the years is the
17 statute that the Commission enforces and the
18 Commission's mission to assure that campaign funds are
19 used to campaign and so do not become the equivalent
20 of bribes. This is the kind of feel-good rulemaking
21 that sucks everybody in. I know. I've been there. I
22 was sucked in on this very rulemaking. But, when you
23 think about it, the problems are there.

24 For example, one commentator here just now
25 stated, well, you're not going to have a risk of

1 corruption, and others have implied that. If you just
2 pay the minimum for the office, of course, they're
3 going to want to use it to campaign.

4 Okay. But these laws, I'll bet nobody's
5 thought about this -- at least nobody has in the
6 comments that I've seen or heard, right -- these laws
7 will preempt state anti-corruption laws, so any state
8 representative can now be paid \$175,000 while running
9 for federal office, even if they have no intention of
10 winning the office, even if they don't care if they
11 win the office, even if it's a totally safe seat for
12 the party, but they can get that money, which may be
13 very helpful in their extracurricular persuasion while
14 serving in the state legislature.

15 Or anybody serving in an appointed office
16 could also be paid large sums of money, ostensibly, to
17 run for office. And that's what I mean. There's so
18 many little traps here and things that people know.
19 Everybody's feeling good, you know, everybody supports
20 this. Who doesn't want more people to be able to run?
21 Who wouldn't want to be able to use their campaign
22 funds for personal use?

23 When one Commissioner states that every
24 dollar covered comes from private funds and
25 constitutes money that's not spent to persuade voters,

1 I'm not really sure that's an argument in favor of
2 this rulemaking. It strikes me as an argument as to
3 the exact reason why this rulemaking is improper and
4 contrary to the statute. So I look forward to
5 answering any specific questions that you might have
6 during the question period, and I thank you for your
7 time today and for holding this hearing. Thank you.

8 CHAIR LINDENBAUM: Thank you. And I'll tell
9 you you couldn't hear it, but you got a number of
10 chuckles throughout the room.

11 And our final panelist is Daniel Weiner from
12 NYU's Brennan Center for Justice. He's here with us
13 in person.

14 Mr. Weiner, welcome back.

15 MR. WEINER: Thank you so much. I'm
16 chagrined to be going last. Particularly, that's a
17 tough act to follow, so I'm going to do my best. But,
18 Chair Lindenbaum, Commissioners, and Staff, thank you
19 so much for having me and for the opportunity to speak
20 today on this critically important subject.

21 For those of you who don't know me, I co-
22 direct the elections and government program at the
23 Brennan Center for Justice at NYU's School of Law.
24 Like Mr. Smith and others here today, I am an FEC
25 alum.

1 The Brennan Center is a non-partisan law and
2 policy organization, and a critical part of our
3 mission is to champion policy solutions to strengthen
4 and revitalize American democracy so that it is one in
5 which all Americans have the opportunity to
6 participate, and I do believe that the policy before
7 you today is one of those solutions. And it does,
8 with apologies to Mr. Smith, give me great pleasure to
9 be before you today to discuss a set of issues that do
10 have broad agreement across partisan and ideological
11 lines.

12 So, simply put, as other panelists have
13 said, running for Congress is a full-time job and an
14 expensive proposition. Those of us in my field tend
15 to focus on the costs of mounting a successful
16 campaign, but as my co-panelists have already noted,
17 running for office also imposes significant personal
18 costs. It precludes other paid work. If you were a
19 full-time homemaker or caregiver, it may mean that you
20 need to take on extra childcare or dependent care
21 costs. And, of course, it can mean the loss of health
22 insurance and other regular benefits that in the
23 United States are connected to paid employment.

24 As the original petitioner noted, Ms. Islam,
25 this is often cost-prohibitive for working Americans.

1 And I do feel obligated to point out that many of the
2 people who are most impacted by that discrepancy are
3 the people who have historically been excluded from
4 our political process: people of color, LGBT people,
5 women, and particularly women of color. And I think
6 it's fitting that you're conducting this hearing
7 during Women's History Month because this is a very
8 important issue, as Ms. Grechen Shirley and others
9 have noted, for women candidates.

10 These groups have all made historic
11 progress, but as we know, they continue to be
12 underrepresented in Congress. Congress is also
13 roughly 50 percent millionaires, as compared to less
14 than 10 percent of the U.S. population.

15 So the Commission had made progress on this
16 issue. I think you made the right decision in your
17 previous rulemaking and in your subsequent advisory
18 opinions, but there is clearly room for improvement,
19 as Commissioner Weintraub noted.

20 And our view, I think, aligns significantly
21 with the views of other commentators, and I will
22 briefly talk about our position, and then I want to
23 spend the remainder of the time to talk a little bit
24 about some of the objections.

1 We agree that there should be a single
2 salary cap that should not be connected to someone's
3 prior income. We take the position that you could
4 authorize a cap up to the minimum salary for the
5 office sought, but in the very least, it should be a
6 living wage, and the offset should also be applied,
7 for other earned income, should also be applied
8 evenly.

9 We agree that there should be room for
10 standard benefits. You know, I thought that Mr.
11 Gold's proposal to allow you to give yourself the same
12 benefits that you provide to your other campaign
13 employees was a good one. I think that's a good
14 blueprint for a solution.

15 Strongly agree that there should be a
16 uniform eligibility period for collecting a salary,
17 and I agree with Commissioner Broussard and
18 Representative Frost that you should take into account
19 losing candidates as well, because people are taking a
20 big risk running for office and it's appropriate to
21 give them some wind-up period.

22 And I also want to urge you to provide clear
23 guidance for the non-compensation use of campaign
24 funds, for instance, for childcare necessitated by
25 campaign events. Advisory opinions are lovely. It's

1 good that you've been giving them, but, ultimately, I
2 don't think people should have to come to you for an
3 advisory opinion every time they want to hire a
4 babysitter.

5 All of these changes would be consistent
6 with the Act. And, Commissioner Dickerson, I share
7 your concern about commingling, and I actually think
8 this is the best way to prevent personal commingling
9 with campaign funds because I agree that a salary is
10 compensation for services rendered to a campaign. And
11 I -- and I've studied these issues, and I've also
12 worked here -- would much rather have uniform salary
13 rules and clear rules for candidates being compensated
14 that don't create the temptation to try to find other
15 ways to supplement your daily living with campaign
16 activities.

17 So I think, ultimately, strong rules in this
18 area actually are an anti-corruption mechanism. And
19 the Brennan Center certainly does extend to anyone in
20 worrying about corruption, but we are very much of the
21 opinion that these are important changes.

22 And I want to close just by saying that this
23 rulemaking is important not just for legal reasons.
24 It's also an opportunity for you to send a message, a
25 bipartisan message encouraging people of all

1 backgrounds to put their names forward for public
2 service and to dispel what I think is still a stigma
3 against paying yourself a living wage when you run for
4 office. The Commission has a bully pulpit in addition
5 to your legal authority, and I think that you should
6 use both. So thank you very much, and I'm looking
7 forward to your questions.

8 CHAIR LINDENBAUM: Thank you, and thank you
9 to all our panelists for these opening remarks. I
10 will offer as the Director that we are running exactly
11 on time, and we should all be very proud of ourselves
12 for that.

13 So, with that, I'd like to open it up to my
14 fellow Commissioners for questions. So, colleagues?
15 Commissioner Broussard?

16 COMMISSIONER BROUSSARD: Thank you, Madam
17 Chair. The first question that I have I'm going to
18 ask Mr. Gold, and if you recall, in the comments that
19 were made by Commissioner Dickerson, there was a
20 question regarding the personal use that you're asking
21 for, and we've heard it from other witnesses as well.

22 So I'd like you to think about this
23 question: Is it personal use to pay a salary to a
24 campaign manager since that person will presumably use
25 the salary to pay their mortgage or clothing or maybe

1 that nice haircut that we just heard about? I also
2 wondered how you might want to be perceived rightly
3 for them to advertise what they want to do as well.
4 Those are things that might be happening with the
5 money. We don't know. So, in that instance, is that
6 explicitly personal use?

7 And what about the fact, in that instance,
8 if the campaign manager could volunteer for the
9 committee under the volunteer exception preclusion?

10 MR. GOLD: So, no, I don't believe paying
11 the campaign manager a salary is an example of
12 personal use. Now, of course, the personal use
13 restriction applies to the candidate and not the
14 campaign manager. And just more broadly, you know, I
15 think, you know, Commissioner Dickerson's concerns
16 about the Commission authority and the anti-corruption
17 purposes of the Act are all patently important here.

18 The Commission did address these, including,
19 I assume, when Commissioner Smith, when the issue of
20 the exposure and justification of the original
21 regulation 20 years ago, at 67 Fed. Reg. 76972, had
22 made three points about that.

23 The first was but for the candidacy of the
24 candidate who would be paid a salary in exchange for
25 services rendered to an employer; second, if campaign

1 funds are used for a financial application that is
2 caused by campaign activity or the activities of an
3 office-holder that uses them for not personal use; and
4 third, as I quoted in my opening statement, the salary
5 paid to a candidate would be in return for the
6 candidate's services provided to the campaign, and the
7 necessity of that salary would not exist irrespective
8 of the candidacy.

9 I think "salary" is detached from the
10 particular prohibited uses that are itemized in the
11 regulations that Commissioner Dickerson and others
12 have mentioned. The candidate is providing services
13 to the campaign. I disagree with Brad Smith that the
14 campaign is not an employer.

15 The campaign is an employer. The statute
16 makes many distinctions between the campaign
17 committee, the authorized committee, and the candidate
18 himself or herself, and under law, campaigns are
19 employers. They are subject to employment laws,
20 federal and state employment laws, as employers. That
21 is not preempted by the Federal Election Campaign Act.

22 So the campaign committee, as the substitute
23 employer here, cannot corrupt the candidate, unlike
24 with the conventional employees. They can't subsidize

1 their employees' campaigns by enabling them to
2 campaign on working time.

3 So I think that, you know, the Commission
4 does have authority. The personal use restriction is
5 statutory and it's clearly necessary, and so it's up
6 to the Commission to interpret to that level.

7 I think the concern that Former Commissioner
8 Smith here explained, I think it could be avoided. He
9 describes, I think, a slippery slope about benefits,
10 but that easily could be prevented by some careful
11 regulation by this office.

12 I note that the statement in Advisory
13 Opinion 2022-07 by Commissioner Broussard and then-
14 Chairman Dickerson, in fact, you know, made the point
15 that where a candidate incurs childcare expenses that
16 would not exist irrespective of the candidate's
17 activities in support of their own campaign, they may
18 be paid for by using campaign funds.

19 That's not an employment rule itself, but it
20 is a specific application of the law that pertains to
21 a particular circumstance that does not necessarily
22 mean anything goes and there's no end to what the
23 Commission will do.

24 I also think that Commissioner Smith's
25 example of a state-level incumbent running kind of a

1 faux campaign for federal office in order to enhance
2 his or her salary is undermined by the fact that we've
3 had 20 years of experience with the current rule and
4 there is no reported examples of abuse of the rule
5 that I'm aware of. It's not that it can't be abused.
6 Any law may be subject to abuse, but the way you deal
7 with it is by taking enforcement action against it and
8 not throwing out the baby with the bath water.

9 So a bit of a long answer to your question,
10 but a good number of those were concerns, and there
11 was a Commission opinion there.

12 COMMISSIONER DICKERSON: Madam Chair? Thank
13 you. I want to back up a little bit. I appreciate
14 the direct responses to my opening very much. So I
15 think there's at least two big questions here, and I'd
16 like to disaggregate them.

17 You know, the first is, you know, what the
18 level of a salary cap should be and, you know, in
19 practice, whether there's any basis for using the
20 salary for an office-holder as the baseline salary for
21 a candidate, which I will have questions about it. I
22 think it's an interesting question.

23 Unrelated, though, is this question of
24 duration that Representative Frost raised, you know,
25 and I will say, you know, I have some sympathy for

1 that problem because, to the extent that this
2 regulation is cabined by an opportunity cost sort of
3 approach to salary replacement, you do have this
4 problem of starting and ending points that, you know,
5 create the problems we've heard. So I guess I'd like
6 to start there because that strikes me as an easier
7 question.

8 And maybe I should start with Mr. Smith
9 since I have a soft spot for dissenters on panels from
10 personal experience. But I wonder, you know, how
11 should we think about the period between the closing
12 of the election, between election day and the moment
13 in which the new Congress or the new President takes
14 office? What would be the appropriate rule during
15 that period? And I think, relatedly, maybe an easier
16 question, you know, right now, we tie this to the date
17 of access to the ballot for filing with the state.
18 Does it make sense to instead tie it, as several of
19 the commentators have suggested, to our own
20 declaration of candidacy process?

21 MR. SMITH: Sure. Thank you, Commissioner
22 Dickerson. So, you know, I think, again, that much
23 can be -- you know, we've put our finger on a problem
24 there, that people have a couple months in which it's

1 not really quite clear how are they supposed to live
2 through November and December in terms of income.

3 Having said that, I would note that, for
4 example, when I accepted an appointment and was sworn
5 in as a Federal Election Commissioner, I spent my
6 first two months sleeping on a friend's sofa-bed in
7 his living room of his apartment in Washington, D.C.,
8 because I couldn't afford to rent a place in D.C.
9 until I got my home sold out here in the Midwest.
10 It's not an uncommon problem that we put upon people
11 who will serve in the federal government, and for that
12 reason, maybe it should be addressed, but it should be
13 addressed by Congress.

14 Note that Congress, for example, already
15 provides transition funds for Presidential campaigns,
16 for Presidential administrations. Congress can
17 provide payment for persons who have been elected to
18 office once their election is certified.

19 We would have some questions, you know, if
20 there are recounts, you know, do they have to be
21 certified before they can continue drawing salaries
22 and so on. But, surely, Congress can provide for
23 that, and, in fact, in recent Congresses, we had a
24 bill introduced, the Help America Run Act, that would
25 do just that, and the bill has not passed, and I think

1 that indicates some of the problems with attempting to
2 do this by Commission fiat.

3 So I think that it raises one other
4 theoretical problem, which is, even more than when the
5 person is a candidate, we now know that the person is
6 an office-holder. Presumably, they would raise these
7 funds through their campaign after the election, so
8 anybody who is receiving the funds now or donating the
9 funds now knows that, essentially, they're going
10 straight into the candidate's pocket to provide the
11 candidate with an income of about \$15,000 a month for
12 a couple months while we wait for them to transition
13 into office.

14 So, again, policy-wise, I can see some
15 issues with it. I can see some reason for Congress to
16 want to provide those kinds of transition funds, but I
17 think, again, it's one of those things that is simply
18 beyond the Commission's authority under the statute,
19 and it does raise a number of policy distinctions
20 which raise, I think, some serious issues and have not
21 really been addressed.

22 And I would point out, when it's suggested
23 that, well, we haven't had any, for example, examples
24 of corruption under the current rule for 20 years,
25 well, that's because the current rule, in fact,

1 includes a whole bunch of safeguards, one of which is
2 that you can't get paid more than you were paid, more
3 than you were earning before and so on.

4 And, of course, part of this whole rule, the
5 very purpose and intent of this rule, the stated
6 objective of some of the Commissioners and many of the
7 commentators is the current rule's safeguards are too
8 strict; we need to get rid of them. So I think that
9 you need to be very careful about these kinds of
10 things.

11 COMMISSIONER DICKERSON: Can I ask a quick
12 follow-up question? And, you know, again, there's
13 this bifurcation between legal arguments and sort of
14 factual and policy concerns that runs through all
15 this. Do you see -- and I'll throw this over to the
16 rest of the panel as well because several positions
17 were taken -- I appreciated the shout-out to the 15-
18 day period before the filing; that was a good lawyer's
19 point -- are there any -- is there any way to read the
20 statute as giving us discretion to determine the
21 period in which a salary can be paid? Or, you know,
22 especially being you, Mr. Smith, is it just your
23 position that there isn't any policeable legal basis
24 for the Commission to exercise discretion on that question?

25 MR. SMITH: Let me give you what's kind of a

1 big-picture answer to that. I think one of the great
2 problems in American democracy today is the
3 unwillingness of lawmakers to faithfully execute the
4 law and of those in the Executive Branch enforcing the
5 law. In other words, the approach is often to say, is
6 there any way that I can plausibly -- and, really, not
7 so plausibly; everybody knows it's a fig leaf -- so is
8 there any way I can put a fig leaf over my desire to
9 accomplish what I want to do under the current
10 statute, which has always been considered to prohibit
11 what I want to do, right?

12 And we see that over and over from both
13 parties in which they're not giving a faithful
14 execution of the law. So, yeah, you can sit here and
15 you can look and you can try to say, oh, you know, we
16 can squeeze this in; we can redefine what's a
17 committee, what's a candidate in the statute.

18 You know, a committee doesn't exist. It's
19 an independent expenditure committee until the
20 candidate comes onboard, and then it's totally
21 converted and it can't continue to spend money. It
22 might have been able to spend it as an independent
23 expenditure committee and you can't raise that money.

24 You know, you can't kind of play these
25 little games like that, verbal games, and say we can

1 squeeze this in under the statute. I would suggest to
2 you that nobody has ever thought that the statute
3 allows candidates to pay themselves salaries and that
4 what we're doing here is exactly saying, can we
5 squeeze this in with a fig leaf that makes us think
6 that it's okay for a candidate to use over \$200,000 in
7 campaign funds to pay himself for the time before
8 running? I think the answer to that is no.

9 So, to your question, I mean, I think people
10 can come up with rationales that seem to fit, but I
11 think that a really faithful execution of the statute
12 says no. And I was wrong on that 20 years ago. I
13 know that all of us here would agree that's the only
14 incorrect decision I made during my time on the
15 Commission, but I think you need to be careful about
16 that.

17 COMMISSIONER DICKERSON: Appreciate that,
18 sir. My colleagues keep on very gently reminding me
19 that we have no jurisdiction over the naval ship-
20 building budget.

21 CHAIR LINDENBAUM: Commissioner Trainor?

22 COMMISSIONER TRAINOR: Thank you, Madam
23 Chair. So, if I read the comments correctly, and
24 correct me if I'm wrong, but all of you, I think, with
25 the exception of Mr. Smith, would do away with the

1 portion of our current regulation that deals with the
2 earned income that the candidate received during the
3 year prior to him becoming a candidate, is that
4 correct?

5 MR. SMITH: Yes.

6 COMMISSIONER TRAINOR: So I want to address
7 a unique situation then that I think we would have to
8 consider in that particular situation, and that is
9 Presidential campaigning. The Presidential salary is
10 \$400,000 a year currently.

11 And what parameters should we put in place
12 if we were to address that? You've obviously been on
13 the ballot by the state, so you can be a Presidential
14 candidate in one state. I looked it up here. Last
15 cycle, there were four particular parties that had a
16 ballot line in New York: the Conservative, the
17 Democrat, the Republican, and -- I'm sorry, the
18 Democratic, Republican, and the Working Families.

19 Now some of those join together during
20 different Presidential election years; other years,
21 they don't. The Libertarian Party has access in only
22 33 states. The Green Party has access in only 17
23 states. The Constitution Party has access in 12
24 states. At what point would they become a candidate

1 for President in those particular situations and then
2 capable of paying themselves \$400,000 a year?

3 And a second part to that question would be,
4 what about the incumbent U.S. Senator or Congressman
5 who decides to run for President? They're currently
6 making \$174,000 a year. We would do away with the
7 earned income provision that's currently in the reg
8 that you just agreed we should do away with. That
9 means they would have a difference of \$226,000 a year
10 that they would be allowed to pay themselves. So, if
11 you were a sitting U.S. Senator or Congressman, you
12 decide to file in one state as a Presidential elector,
13 then, all of a sudden, you're now allowed to pay
14 yourself an additional \$226,000 a year?

15 That's kind of a two-part question. Happy
16 to hear from all of you or one of you.

17 CHAIR LINDENBAUM: Mr. Weiner?

18 MR. WEINER: Sure. Thank you, Commissioner.
19 I think those are very valid questions, and I'll try
20 to walk through them. I, you know, disagree with
21 Former Commissioner Smith. I do think you have
22 discretion, and I think you raise good policy
23 questions of how you would implement this rule.

24 Speaking only for myself and having not
25 thought that much about it, I would say it would be

1 defensible to say that the salary cap would be the,
2 you know, minimum federal salary of a member of
3 Congress, so \$174,000, I think, is what it is.

4 Actually, the filing deadlines question
5 points to, I think, one of the unworkability aspects
6 of the current rule, right, is that it's not uniform,
7 and I think it's one of the reasons that all of us
8 have sort of argued we really just need a uniform
9 period of eligibility.

10 Similarly, our position is not that the
11 offsets, you should just do away with the offset; it's
12 that the offset should be uniform and that it should
13 apply to everyone equally. So I think that you could
14 have the discretion and I think it wouldn't be bad to
15 say there should be an offset for other earned income,
16 maybe particularly other earned income from another
17 federal office. It just should apply regardless to
18 everyone on the same terms.

19 And I will note that some of the other
20 concerns that Mr. Smith raised are also, you know,
21 they're policy questions that I think that you can
22 deal with in this rulemaking. Again, I haven't
23 thought through this entirely, but I think that you
24 could have a provision that said you can give yourself
25 a salary as long as you're not violating any other

1 federal or, you know, state law. I think that's a
2 pretty basic provision that you could include.

3 So I think these are solvable problems. I
4 mean, again, I want to reiterate I think the
5 Commission was correct when it issued the original
6 salary rulemaking. I do think the plain text of the
7 statute allows this, and I actually think that it
8 would be a safeguard against corruption because it
9 would reduce the incentives for the kind of
10 commingling and taking advantage that the current
11 rules still do allow.

12 MS. LOPEZ: I just want to add I agree with
13 all that. And I would say I think about this in one
14 particular way, similar to Commissioner Dickerson,
15 which is there's a legal question here and there's a
16 policy question. And I think, Commissioner Trainor,
17 you raised in my mind the most difficult policy
18 question.

19 On the legal question, I disagree with Mr.
20 Smith and I would say the FECA makes clear a campaign
21 has wide discretion to decide how to spend its money.
22 The one exception is you cannot convert campaign funds
23 to personal use.

24 Any person -- and nobody can use campaign
25 funds for personal use, whether you're the campaign

1 manager or the candidate or the intern. And the
2 Commission, for as long as it has existed, has
3 interpreted that, and you can do that again here.

4 And the question is, when is an expense
5 irrespective of candidacy? I don't think a salary is
6 irrespective. If you accept Mr. Smith's proposition,
7 you put our candidates in a legal catch-22 where they
8 are not allowed to get paid for work they're no longer
9 doing from another employer, but they're also now not
10 allowed to get paid for work they are doing for their
11 campaign. A candidate and a campaign are not the same
12 person. One is a hopefully incorporated 527 nonprofit
13 entity; the other one is an individual who is working
14 day in and day out with the organization to elect
15 themselves to office.

16 On the policy question, I agree that's a
17 very tough question, and the application is actually
18 one I had not thought of, that many candidates for
19 Senate run for President. Members of the House might
20 run for President as well, and I think all of us here
21 echo the concern that you should divorce the
22 calculation from the minimum wage and from past earned
23 income because I think both measures are very
24 problematic.

1 And then, after that, the Commission has a
2 hard decision to make about what is an amount that is
3 reasonable, that is fair, that doesn't open the door
4 to corruption. And I think that this body,
5 particularly this body of Commissioners, is very well
6 equipped to do so.

7 If we think that \$400,000 is too much, set
8 it to be, you know, the minimum amount for any member
9 of Congress so there is not that incentive to just
10 seek higher office to pad your salary, set it to half
11 of the salary of a member of Congress, but set it at
12 something reasonable that is fair and applies evenly
13 to everybody.

14 MR. GOLD: I don't recall the issue of a
15 Presidential candidate coming up in the original
16 rulemaking. I could be wrong. You know, it's
17 certainly something that should be addressed. It's
18 not addressed clearly in the current rule. The
19 current rule really doesn't cover it.

20 You know, it seems to me that, you know,
21 running for President is so different than running for
22 Congress that the kind of politics of the situation
23 will cut against abuse there by anybody who's
24 seriously running for President.

1 Now, with respect to, you know, parties
2 having to qualify for ballots in different states, you
3 could set the primary filing deadline or the point
4 where the individual is eligible for a salary at the
5 point where the candidate has qualified for the ballot
6 in enough states to net out 270 electoral votes.

7 I'm kind of thinking out loud here, if you
8 will, but, you know, right now, the rule does, you
9 know, reduce the potential salary, campaign salary of
10 a candidate by any other earned income. So it's not
11 that a member of Congress could just slap on another
12 \$200,000. Even so, it just seems very unlikely that a
13 member of Congress would increase their salary in a
14 serious run for Presidency. It might even damage
15 their ability to be reelected to their current
16 position if they did that.

17 I guess the bottom-line point is this is
18 something that the Commission, it's worth addressing,
19 but I think it is, as a practical matter, somewhat
20 more likely a side issue to the central purpose of the
21 rule, which is to enable individuals to run for
22 office.

23 COMMISSIONER TRAINOR: I just want to talk
24 about it a little bit further in the context of I know
25 it seems unusual and something that you say may not

1 happen, but we've seen recent litigation of the
2 Commission laws where we had regulations in place for
3 candidates not to -- funds that they had loaned
4 themselves, and we haven't seen those candidates, as
5 you know, I would say across the board now, candidates
6 going back or trying to go back for those funds.

7 So, while, you know, there may not be a
8 public appetite because of the perception of the
9 abuse, I think that if we look at candidates and
10 people in Congress becoming more and more professional
11 in their job and not limiting themselves to, you know,
12 a certain number of terms or something of that nature,
13 that this is something that really would have to be
14 looked at in doing away with that provision and not
15 looking at the previous earned income of the
16 individual.

17 I think that while I disagree with the
18 current regulation, I think that the only saving grace
19 is that earned income exception in there, because I
20 think that provides the only kind of equal protection
21 protection for the Commission with regard to what we
22 would have to be concerned with and the immediate
23 risk. Thank you, Madam Chair.

24 MS. LOPEZ: Just one additional thought.
25 Going back to the statute, right, and the regulations,

1 what we're asking here is for the expenses
2 irrespective of a candidacy. If you're a sitting
3 member of Congress, you have a full-time job.
4 Ethically, you still have to do that full-time job, so
5 I think there is an argument if the Commission wants
6 to pursue it that if you're an incumbent you can never
7 draw a salary from your campaign because you are
8 required by kind of in-house ethics rules to do your
9 full-time job without compromise even though they're
10 still in Congress. That might be a good way to
11 address that problem.

12 CHAIR LINDENBAUM: Commissioner Broussard?

13 COMMISSIONER BROUSSARD: Thank you, Madam
14 Chair. This question goes into a different area.
15 There's been some discussion regarding opportunity
16 costs, but, Mr. Weiner, in your comment, you said that
17 we should look at the quality more technically as a
18 fair market value test. Could you give us your
19 analysis or the reason why you think it's more
20 equitable to say "fair market" versus "opportunity
21 cost"?

22 MR. WEINER: Absolutely, and thank you for
23 that question. Fair market value is a concept that
24 recurs throughout your regulations and a lot of your
25 decisions. And I, you know, as we articulated in our

1 comment, I think that is the best, we think that is
2 the best rubric we would propose.

3 I want to join my co-panelists who pointed
4 out that the candidate, I think, is providing services
5 to their campaign. I would note, by the way, that,
6 you know, there are a number of other instances where
7 campaigns will provide monetary value to candidates
8 and the subject of a candidate and the property that
9 the campaign uses, if the candidate owns a business
10 that the campaign wants to use as a vendor. That has
11 happened many times.

12 So you already have, you know, what we might
13 call a moral hazard here. You just happen to have a
14 moral hazard that sort of skews in favor of folks who
15 already own businesses and property that they can
16 maybe use with their campaigns. And I think that,
17 actually, that has mostly been managed in, again,
18 returning to this concept of fair-market value.

19 Opportunity cost, I think, one, is less
20 familiar in your sort of regulations and in your
21 decisions. I think it's harder to quantify, and,
22 again, you know, I really do feel that it leads to a
23 degree of unfairness because an essential worker who
24 worked all through the pandemic but made a lower

1 salary I don't think should be treated differently
2 than a lawyer or a stockbroker.

3 And I think that's a policy question, and
4 going back to Commissioner Dickerson, that you do have
5 the power to take into consideration. But I think
6 that in terms of just consistency with your approach
7 to sort of analogous issues, looking at kind of fair
8 market value, looking at the services provided is
9 analytically a more correct way to do this.

10 COMMISSIONER DICKERSON: Thank you, Madam
11 Chair. Commissioner Broussard actually anticipated my
12 question, though she took it in a slightly different
13 direction. So, you know, I think the opportunity cost
14 concept is unfamiliar to our larger law because it
15 comes out of the irrespective test, which is limited
16 to the personal use issue. I mean, I think that's why
17 you have that disconnect.

18 But I want to probe this market question a
19 little bit. Well, I'll just say it. It seems to be
20 wrong to say that the salary for a member of Congress
21 is the fair market value for a candidate for at least
22 two very obvious reasons: one, they're different
23 jobs. A member of Congress has to be a member of
24 Congress and engage in all of the duties of a member
25 of Congress, to Ms. Lopez's point, and a candidate

1 does not, and so, you know, that seems just factually
2 wrong.

3 The other, of course, is that the expenses
4 are different. A member of Congress is expected to
5 maintain a residence in the district, as well as one
6 in Washington, D.C., and so the overhead, for lack of
7 a better term, of a member of Congress is markedly
8 different from that for a candidate.

9 And so those seem to me like fairly obvious
10 objections that I didn't really see addressed in any
11 of the comments, so I'll throw that to you.

12 The bigger issue, I think, is that, you
13 know, when we talk about a market price, what we
14 usually have in mind is arm-length transactions
15 bargained for in a free market where supply and demand
16 are meeting in some way and you're getting a market
17 price. But the salary for Congress does not in any
18 way resemble that. I mean, there's Constitutional
19 limitations on how Congress can pay itself, that
20 impose delays, which is not really a market concept.
21 It's, I'm not going to say "self-interested," but
22 certainly not an arms-length transaction between
23 members of Congress and themselves over how to pay
24 themselves.

1 So I'm just not sure that is a -- leaving
2 aside the underlying question of whether, you know,
3 we're breezily talking about the difference between
4 174 and 400, which is not a working-class salary, I'll
5 just say, you know, leaving aside this central
6 arbitrariness of us setting a market price, is that --
7 do you have any responses to what I think are pretty
8 clear objections to using Congressional pay as a
9 market mechanism?

10 MR. WEINER: Well, Commissioner, those are
11 very valid questions and I think ones that you will
12 wrestle with. I will say that at least my perception
13 is that the Commission has tended to adopt a somewhat
14 deferential approach to fair-market value in other
15 contexts. Fair-market value is inherently going to be
16 somewhat indeterminate, and the Commission has tended
17 to say that candidates and campaigns can use their
18 money, you know, however they see fit.

19 And, again, you have a lot of examples of
20 candidates using money for property, rent property
21 that the candidate owns to, you know, provide
22 services, you know, from a candidate's business. And
23 the Commission generally does not, you know, look
24 under the hood too much.

1 And despite, you know, the Brennan Center's
2 position as a relatively pro-regulatory advocate, I
3 understand why, right, because, ultimately,
4 candidates, as I think Mr. Gold noted, you know, are
5 subject to the kind of free political marketplace.
6 And I think that the same logic applies here. I, you
7 know, would argue, and I'll be interested in what my
8 co-panelists say, that the salary, at least the
9 minimum salary for a federal office-holder is an
10 effective approximation given imperfect information of
11 what the fair-market value of a candidate's service
12 is, a non-incumbent candidate's services are.

13 And I recognize, though, that that is
14 imperfect, and it's why, you know, in our comment we
15 said that is our preferred approach, but, ultimately,
16 our goal is that you will allow all candidates to
17 collect a living wage and reasonable benefits.

18 And, to me, that's the bottom line. But I
19 do think that you are always dealing with a certain
20 amount of uncertainty, and these are tough policy
21 calls. And, certainly, I think, on the Presidential
22 level, as Commissioner Trainor noted, there are
23 particularly difficult policy questions.

24 Our point is that you do have authority to
25 address the problem, and there's probably more than

1 one right solution, again, sort of adhering to that
2 lodestar of a living wage and reasonable benefits.

3 MR. SMITH: Commissioner, may I be
4 recognized?

5 CHAIR LINDENBAUM: I'm sorry, I don't know
6 where that's coming from.

7 MR. SMITH: This is Brad Smith.

8 CHAIR LINDENBAUM: Okay. If you keep your
9 video on, I'll be able to do that, but give me just
10 one moment. I have a --

11 MR. SMITH: Sure.

12 CHAIR LINDENBAUM: Commissioner Broussard
13 just has a question for panelists.

14 COMMISSIONER BROUSSARD: Thank you. In
15 response to the questions that I've asked, Mr. Gold,
16 in your comment, you made the suggestion that looking
17 at Alternative A that goes 50 percent up to a hundred
18 percent, in any way were you taking some consideration
19 of a fair-market value in kind of looking at 50
20 percent of the salary? Just curious.

21 MR. GOLD: Yeah, I don't believe we
22 advocated for 50 percent in this.

23 COMMISSIONER BROUSSARD: I think it says
24 you're allowing a candidate to take up to a hundred

1 percent of the lowest, is how I read it, so I was kind
2 of being --

3 MR. GOLD: No, I didn't.

4 COMMISSIONER BROUSSARD: Well, okay. Those
5 who have commented on that apparently. But okay.
6 Well, then I think you've answered my question by just
7 my format.

8 CHAIR LINDENBAUM: All right. Mr. Smith?

9 MR. SMITH: Thank you, Commissioner. So I
10 wanted to respond quickly to Commissioner Dickerson's,
11 I guess, last comment. So, when you have a campaign
12 committee, it's called the John Doe for Congress
13 Committee, and they're out there collecting
14 contributions and stuff.

15 And then one day they decide, whoever chairs
16 this committee, you know, it would be really helpful
17 to us if we actually hired a candidate. So they go
18 out on the market and put some ads out and so on and
19 eventually hire a candidate for Congress who just
20 happens to be John Doe, and they get into negotiations
21 with him about his salary, and they say, well, you
22 know, we can only pay you the Congressionally mandated
23 minimum or the FEC rules won't let us pay more than
24 the Congressional salary, but we can give you fringes,
25 and we can give you a car, a cell phone plan -- of

1 course, childcare and healthcare -- but a cell phone
2 plan, a car. We can give you a country club
3 membership. We can give you a luxury box to athletic
4 events.

5 Anything, essentially, can go into fringes
6 under some of these various alternatives, again, many
7 of which are very explicitly prohibited by the
8 statute. So I think, you know, the question not only
9 gets to that question of how does the Commission
10 determine a salary, but, you know, what are you
11 getting yourselves into and how much fine-tuning are
12 you going to have to be doing?

13 And as I've raised these issues here, one
14 thing I've noticed is repeatedly others just saying,
15 well, gee, I've never really thought about that, but I
16 suppose we could deal with that. And I suspect, you
17 know, you probably could more or less adequately. The
18 point is that you're going to have this never-ending
19 group of questions coming down the road if people, in
20 fact, want to get around those.

21 And, again, I think we go back to the
22 statute that says simply you can't do this. And I
23 think, when we talk about faithful execution of the
24 statute, nobody thought ever that this statute was
25 intended to prevent a campaign from paying salaried

1 staffers for the campaign. It was intended to apply
2 to the candidate, and it was intended to apply to the
3 salaried staffers taking campaign funds and just using
4 them for other things outside their market-negotiated
5 salary.

6 And what we have here again is not only is
7 the candidate not in that position, but there is no
8 market-negotiated salary for him. Again, the campaign
9 doesn't exist, and once they decide to go out and hire
10 a John Doe to be a candidate, and lo and behold, they
11 find the best candidate to fill the John Doe for
12 candidate is John Doe, he'll provide the best services
13 to the committee.

14 That's not how it works. That's not what
15 we're talking about here. So I think he's, again,
16 raised, you know, put his finger on another real
17 problem with this issue both in terms of its practical
18 implementation and in terms of its conceptual action
19 in contrast with the statute. Thank you.

20 COMMISSIONER DICKERSON: Thank you, Mr.
21 Smith. I was just going to ask to the counterparty
22 that was in the market for candidate services, but
23 your explanation is quite a bit more colorful.

24 Can I ask a question, Mr. Gold, that's
25 related? And I will admit that I, as my colleagues

1 would be, I'm sure, happy to tell you, struggle with
2 the larger question of how we think about candidate
3 committees just as a corporate entity, which, you
4 know, the role of the Treasurer, the role of the
5 candidate, I'm sure none of this is anyone on the
6 panel, but I do think it's what the kids are calling
7 undertheorized.

8 So I guess my question is this. In your
9 opening, you mentioned that campaigns are employers.
10 I certainly agree. My question is, are they employers
11 of the candidate? You know, how do we think about the
12 relationship between the candidate and the committee,
13 which I think is distinguishable from the question
14 that Commissioner Broussard asked about the campaign
15 manager assuming to be an agent of something, maybe
16 the committee, maybe the candidate. It's not really
17 clear to me. So I wonder if you have thoughts on
18 that?

19 MR. GOLD: I think the campaign can be the
20 employer of the candidate by looking at it as the
21 Commission maximized the rule years ago, that the
22 candidate is performing services for the authorized
23 committee, necessary services, core services that
24 there would be no authorized committee without the
25 candidate.

1 And the fact that the campaign acts as an
2 employer in its relation to the candidate, even though
3 the candidate's really running the whole show, is, I
4 think, a necessary legal mechanism in order to
5 effectuate the purposes of this rule, in order to
6 comply with employment law, in order to enable the
7 Commission, in part, to set some kind of range or
8 salary cap here, which I agree is a necessary
9 component of the rule.

10 And more broadly, I want to come back to the
11 point I've made a few times. There is a political
12 marketplace here that necessarily is going to cabin
13 what is done, what is able to be done, what is able to
14 be carried off in this whole area, and I think the
15 Commission can take some comfort in that. I think Mr.
16 Ruiz, as we mentioned a few moments ago in response to
17 a question, has been able to take a better look at it.
18 So I think that it can be and it is as a legal matter
19 something as an employer in this situation serves a
20 lot of purpose.

21 CHAIR LINDENBAUM: Let me just jump in on
22 that. You've all talked about having a campaign be a
23 527 corporation, which means it has a board and,
24 depending on the state, depends on how many board
25 members are required. In your experiences when you're

1 setting up these boards, is the candidate usually a
2 board member?

3 MR. GOLD: I have less experience, I think,
4 than Ms. Lopez, but in my limited experience, it
5 varies. Usually not.

6 MS. LOPEZ: I have never had a candidate be
7 a member of the board, and I recommend against it.

8 CHAIR LINDENBAUM: I will say that I've
9 always made the same recommendation, and thank you for
10 getting that clarified in that information.

11 COMMISSIONER DICKERSON: Madam Chair?

12 CHAIR LINDENBAUM: Yeah?

13 COMMISSIONER DICKERSON: So, as a formal
14 matter, a campaign can fire the candidate?

15 MR. GOLD: I think, as a formal matter,
16 depending on the corporation by-laws that they
17 incorporate, which you don't have to, a candidate
18 committee does not have to incorporate, but it can,
19 without being a corporation for purposes of, you know,
20 dealing with election law. But, you know, it depends
21 on the state incorporation law. Pursuant to the
22 bylaws, it would seem to us, technically, yes. But,
23 in reality, again, the political reality of the
24 situation may vary.

1 COMMISSIONER DICKERSON: Again, I take the
2 point. I agree with you that there is a marketplace
3 of ideas, slightly referring to your point. But I
4 think the concern -- and this is always a frustration
5 in this job. You know, we're sitting up here, we're
6 all serious people, we tend to have serious people
7 come and present to us, and I think the serious people
8 have an idea of what a candidate looks like.

9 I will tell you, because we have all sorts
10 of -- if you go down the hallway, there's a big filing
11 cabinet full of unserious candidate filings, and I
12 guess our concern is that those reputational checks on
13 behavior are not formal. Formal checks are things
14 like a board controls the actions of a corporation and
15 is entitled within the law of the state and the bylaws
16 and all the rest of that to take whatever action it
17 wishes. That's a formal check.

18 The fact that anyone who wants to can file
19 as a candidate for President and raise money as much
20 as they like and they don't have to hire anybody is
21 also, you know, a formal check.

22 And so I wonder, you know, when we're
23 starting to talk about the incentives of, you know,
24 low- to mid-six-figure salaries, are we really as
25 confident as you're suggesting that those reputational

1 checks would be sufficient on unserious people, who do
2 see it as an opportunity for self-enrichment?

3 I guess I'm not quite as sanguine on that
4 point, but I'm not trying to filibuster. If there's a
5 response to that or there's history that I'm missing,
6 I'm very open to it. But I think the concerns you're
7 hearing here are not serious candidates for President
8 really worried about their reputations. I think the
9 concerns are others of varies varieties.

10 CHAIR LINDENBAUM: I think one of the great
11 things is our afternoon panel will be able to speak to
12 the difficulties of raising money for office, and
13 there are probably much easier ways to make a six-
14 figure salary than choosing to run for office and
15 having to fundraise for that salary and spend all
16 their time in call time.

17 Sorry. Would anyone else like to respond?

18 MR. WEINER: First of all, Commissioner, I
19 appreciate being called a serious person. I'll let my
20 mother know that you said that. She needs that
21 empirical evidence.

22 MALE VOICE: Maybe you can put it on your
23 resume.

24 MR. WEINER: I will. But just a general
25 response and also thinking about Mr. Smith's comments,

1 what is very encouraging and refreshing about this,
2 these are all, I think, legitimate questions, and I
3 can think off the top of my head of ways that we could
4 mitigate some of the problems that you were worried
5 about here, including potentially saying, you know,
6 before you can be paid a salary, you need to be
7 incorporated and have a board.

8 But the broader, I think, issue or point
9 that I want to make is that the Commission deals with
10 these sort of complex problems all the time. I'm
11 thinking, for instance, and this is one where maybe we
12 would have more disagreements, the political
13 committee's status. This is a complex problem that
14 you have said that Congress has left you some leeway
15 to sort of cope with. At least that has been the
16 position of a number of Commissioners, including, I
17 would expect, Former Commissioner Smith. This is what
18 you do.

19 And my position is just that this is no more
20 complex and this is no more difficult than many of the
21 other 20 issues that the statute does leave you
22 discretion to resolve, and I'm not persuaded
23 otherwise. And so I would hope, you know, that
24 hypotheticals, that sort of the hard cases don't deter
25 you from taking action here, just as they don't deter

1 you in many other contexts from trying to come up with
2 rules that safeguard the objectives of the Act but
3 that also, you know, enrich the marketplace of ideas,
4 as has been said. And I think I am a little bit, you
5 know, chagrined if the hearing gets too bogged down in
6 that because I think that is the big picture with what
7 we're talking about.

8 MS. LOPEZ: I agree with everything my co-
9 panelist said, and I would just like to add to -- and
10 I don't know if you all have thought about this --
11 but, in a lot of areas of personal use, the
12 regulations leave it up to kind of a case-by-case
13 basis for some actors.

14 And I don't think anything would prevent the
15 Commission from saying, if it is true that this need
16 to pay yourself a salary would not exist irrespective
17 of candidacy because you're spending so much time
18 campaigning that you need to pay yourself a salary,
19 okay, but not if you are not a real candidate, which
20 would leave open the door to enforcement.

21 If someone really is actually not doing any
22 campaigning, they just filed an FEC Form 1 and Form 2
23 with the Commission and then moved on with their day,
24 I don't think that would be an impossible thing, and
25 it's a way to say it for us.

1 I would also add, in my experience, it is
2 quite hard to raise a lot of money for a candidate.
3 There are real costs to it, and, again, we live in a
4 country with a strong First Amendment, and there's a
5 marketplace there, and you have to convince people to
6 give you their money and in \$3300 chunks. So it is
7 not super easy.

8 And the last thing I will say, this is going
9 back, like, to Commissioner Trainor's earlier
10 question, taking off my campaign finance hat and
11 putting my ethics hat on, I remember that House and
12 Senate ethics rules would currently prohibit Senators
13 and Members from taking more than the outside earned
14 income cap, so you're already constrained there by
15 that.

16 CHAIR LINDENBAUM: Commissioner Weintraub?

17 COMMISSIONER WEINTRAUB: Thank you, Madam
18 Chair. A hot panel today. Hard to get a word in
19 edge-wise. I want to thank all of the panelists.
20 It's been a really interesting discussion, and in
21 particular, my former colleague, Brad Smith. The FEC
22 became a less entertaining place the day that you left
23 the building.

24 I want to go back to talking about
25 corruption because, as I understand it, that is the

1 only reason we could have for limiting any use of
2 campaign funds, is to prevent corruption. And so far,
3 I think we've heard that there's been no evidence in
4 the last 20 years of any form of corruption coming
5 from the current rules. It's been suggested that's
6 because of all the restrictions that we're planning on
7 lifting, but primarily, I mean, the big lift that we
8 are contemplating is untethering the salary cap from
9 somebody's prior income.

10 Now, you know, a lawyer or a consultant
11 could continue to be a lawyer and a consultant while
12 they are running for office. As long as they are
13 providing some services to their clients, they could
14 continue to draw money from -- there's no outside
15 income limit for candidates. They could continue to
16 draw however much money they can from clients who
17 might perceive them as a hot ticket to Congress,
18 somebody they want to ingratiate themselves with.

19 And there's no rule against that right now,
20 although that is, you know, I would argue, a potential
21 source of corruption. And, by the way, I thought that
22 Commissioner Dickerson made a really interesting point
23 on the salary that, you know, one shouldn't look to
24 the Congressional salary as the appropriate metric for
25 a candidate salary because it's a different job.

1 Well, running for office is also a different
2 job from being a lawyer or a banker or whatever was
3 somebody's previous form of employment. So, if we are
4 talking about what's the appropriate rate that a
5 candidate should be paid for being a candidate, it's
6 not clear to me -- and I'm happy to hear from any of
7 the panelists -- as to why the appropriate metric for
8 a candidate's salary ought to be what you did in
9 another job that had entirely different job
10 responsibilities than running for office.

11 And, on a similar note, again, opening this
12 up to any panelists, is there an increased risk of
13 corruption -- I alluded to this in my opening
14 comments -- from a stay-at-home parent, a machinist, a
15 plumber, a teacher, somebody who makes a lot less
16 money than a lawyer or a banker, are there actually
17 increased risks of corruption from those people
18 drawing a salary from their campaign that would
19 justify our having a rulemaking in which we say you
20 have to have a lower salary than a banker or a lawyer
21 or a doctor or somebody else who's very high-paid? So
22 I open that up to anybody who wants to take it.

23 MS. LOPEZ: So thank you, Commissioner, for
24 all of that. I don't think there's a high risk of
25 corruption depending on your salary at the time, and I

1 want to echo something that Mr. Weiner said earlier,
2 which is I actually think, in the absence of a real
3 ability for a candidate to get a sufficient salary
4 from their campaign, you do run into an increased risk
5 that they're going to get paid for work they're not
6 really doing.

7 And I would say one thing I have seen as a
8 practitioner is certain candidates getting paid
9 enormous sums of money from prior employers that I am
10 skeptical that they are still doing the same amount of
11 work from. So I think that one of the benefits of
12 this rulemaking is to help prevent some of that and, I
13 think, combat corruption in a powerful way.

14 And maybe I'm thinking about this
15 differently than the rest of the Commission, but I
16 don't see the Commission's job here as needing to
17 necessarily specify the exact fair-market value of the
18 services the candidate is providing. I do think the
19 campaign can do that. I see it as a cap to prevent
20 corruption, and we're saying at a certain point it's
21 too much money and that that cannot be the fair-market
22 value, so it is an outer bounds on the market but
23 still allowing the market both within donors willing
24 to give to a campaign and the campaign itself, its
25 budget, to determine how much the candidate can make.

1 MR. GOLD: Yeah. I think that, you know,
2 one important aspect of the current rule that should
3 be maintained is the injunction limiting the campaign
4 salary by whatever the other earned income is. I
5 think it addresses the situation as a very good,
6 important check to prevent, you know, abuse here.

7 And, you know, the problem with the current
8 rule's line apparently and in prior years' experience
9 as a candidate, as I said earlier, is you are
10 undermining the purpose of the rule itself and it's
11 arbitrarily disadvantaging individuals who happen to
12 previously or even if we just say the previous three
13 years had circumstances where they've not made very
14 much money, and then it puts a cap for really no good
15 reason on their ability to sustain themselves while
16 they are trying to have a campaign.

17 And they are likely facing or could be
18 facing, you know, opponents in the primary who are
19 very differently situated and certainly in the general
20 election facing an incumbent who certainly has the
21 \$174,000 salary with no real constraints on their
22 ability to run for office.

23 CHAIR LINDENBAUM: Mr. Makhija?

24 MR. MAKHIJA: Thank you. I would raise, I
25 think, the case that was brought up earlier regarding

1 Ted Cruz last year. You know, the Supreme Court
2 decided that a limit on his, you know, being able to
3 repay more than \$250,000 to his campaign was
4 unconstitutional, and I think it's important to
5 recognize -- we spoke about this in regard to the
6 durational requirement -- what happens post-campaign.

7 But the Court saw that the risk of
8 corruption was addressed by the contribution limit,
9 not by the expenditure which ultimately went back to
10 the candidate, which, in the case of a loan for a
11 wealthy candidate, is well above anything that we're
12 discussing now in terms of \$174,000. It can be, you
13 know, far above that, and so, you know, the Court has
14 already found that that wasn't, you know, something
15 that raised the risk of corruption, quid pro quo
16 corruption, you know, as they found.

17 And so this is really, you know, not -- this
18 is really -- it's allowing people who don't have the
19 resources to make those loans, and the numbers we're
20 talking about are even much less significant than what
21 a wealthy candidate would be capable of loaning
22 themselves.

23 CHAIR LINDENBAUM: Commissioner Dickerson?

24 COMMISSIONER DICKERSON: Thank you, Madam

25 Chair. I think it's my last question. This has been

1 good. So, Ms. Lopez, you, I think -- I'm not sure I
2 agree, but the point was very well made that, you
3 know, there is going to be a market below whatever cap
4 is established and, at some level, the arbitrariness
5 of the cap doesn't change the fact that there's a --
6 we'll call it a "free market" below that cap.

7 But I still have sort of a larger just
8 question of basic administrative law, which maybe Mr.
9 Gold or maybe one of you has run into in your
10 practice. I pretend to no great expertise in labor
11 law, but, you know, it does seem to me that to the
12 extent the Commission is being called on to set the
13 value of labor, whether you want to consider that the
14 value of the fair market of the services being
15 provided or the risk of corruption inherent in a
16 particular price point or however you want to couch
17 it, that, you know, as a matter of the theory of the
18 administrative state, one, I question our expertise in
19 doing that.

20 But I also have the larger question of, is
21 that a thing administrative agencies do? Like, I
22 understand that we, "we" meaning the United States
23 federal government writ large, price commodities, you
24 know, engage in contracting, do all these things.

1 Are you aware -- and this isn't a got-you
2 question, and I'd be open to something after this
3 hearing on this point -- but are you aware of a case
4 where an administrative agency is empowered by
5 Congress to set the value of labor?

6 MR. GOLD: Well, yes.

7 COMMISSIONER DICKERSON: Cite to that.

8 MR. GOLD: Yeah, for example, under the
9 Davis-Bacon Act, the Service Contract Act, there are
10 two labor standards laws that determine what the
11 prevailing wage is in particular -- on particular jobs
12 and defines that prevailing wage in federal contracts.

13 And the Department of Labor does this. It
14 has expertise to do it, and it's not determining
15 itself what the wage should be for a particular
16 occupation. It's looking at the market and seeing
17 what it is and how it prevails in a particular
18 community and where regulations and standards do that.

19 It's different from what the Commission
20 would be doing here in answering your question, but it
21 is different from what you're doing here. Inherently,
22 you all would be establishing a cap or a range.
23 Inherently, you're making an arbitrary decision,
24 making a judgment of everything. As I said earlier,

1 there is no market for candidates as such as a job
2 because it's not -- there just isn't.

3 But, in order to make this administrable,
4 you need to set something. And both the Commission
5 and Congress in the Federal Election Campaign Act have
6 assigned dollar values and specified dollar figures
7 and in an arbitrary way, trying to just make a best
8 judgment about where it should be. The \$3300 limit is
9 the limit. Does that mean \$3300 and one penny is
10 corrupting? Well, technically, yes. Now, when you
11 sit back and think, well, no, there's really just a
12 penny difference in pay, this is why a number must be
13 set.

14 COMMISSIONER DICKERSON: But that's
15 Congress's judgment.

16 MR. GOLD: Well, yeah, but I think the
17 Commission in this situation can establish that. And
18 I don't believe that it would be the example of the
19 Commission setting a numerical standard.

20 COMMISSIONER DICKERSON: Thank you very
21 much.

22 CHAIR LINDENBAUM: Just make a final
23 comment.

24 MR. WEINER: Well, one thing just to add,
25 I'll be very brief, just to add to that, right, is

1 your, I think, as Ms. Lopez noted, your job is simple.
2 You're here to generally not get in the way of
3 campaigns doing what they need to do to win, except
4 that you have the overriding imperative to prevent
5 corruption.

6 I think I want to associate myself with
7 there are several interlocking safeguards against
8 corruption here. There is the contribution limit, and
9 then there is the cap that you are establishing. So I
10 think that your job, you know, is quite a bit simpler
11 than the Labor Department's job here, and, ultimately,
12 the fact that it is somewhat indeterminate is inherent
13 to the business that you're engaged in and I think,
14 does not, as, again, someone who represents an
15 organization that worries a lot about the corruption
16 and our system of money in politics, does not really
17 concern me.

18 I think that the benefits of this rulemaking
19 far outweigh the risks here, and it's inherent that it
20 sort of balances the numeric to what it would be in my
21 view.

22 CHAIR LINDENBAUM: Commissioner Weintraub?

23 COMMISSIONER WEINTRAUB: Thank you. Just
24 kind of a quick follow-up. So I bridle a little bit
25 at the use of the word "arbitrary." I mean, if you

1 tell an administrative agency they're acting in an
2 arbitrary fashion, it's like, oh, my God, that's where
3 we get our rules thrown out.

4 But, to put, you know, a slightly different
5 gloss on that, are we under an obligation to come up
6 with a perfect rule or just -- we just have to
7 demonstrate that we have a rational basis for what we
8 are doing, as opposed to behaving in an arbitrary and,
9 dare I say, capricious fashion, which would be bad.

10 MR. GOLD: Yeah, I wasn't trying to sabotage
11 the rulemaking at the outset.

12 COMMISSIONER WEINTRAUB: Appreciate that.
13 Thank you.

14 MR. GOLD: Right. Sure, I think, you know,
15 you need to come up with a reasonable rule, of course,
16 and I think, on the basis of the original rulemaking
17 with the rule now, 20 years of experience, I suppose
18 it can be observed I think you can come up with
19 something that is defensible and that, you know,
20 where, as was said earlier, I think this was even said
21 earlier, there is a certain degree of deference that
22 is given to this Commission, and if you want to use
23 it, you can use it responsibly.

24 CHAIR LINDENBAUM: Well, thank you all for
25 today's fantastic panel. I know that I certainly got

1 an incredible amount out of it, and it really helped
2 lay the foundation for what we're trying to do here.

3 So, for all of our witnesses today, if you
4 want to submit supplemental information, you can do so
5 for up to a week, which will be the close of business
6 on Wednesday, March 29, so you can be on the lookout
7 for an email that has some additional information.

8 Again, thank you so much for this really
9 fantastic discussion, and we are really grateful.
10 Great. And we will recess for lunch and return at 2
11 p.m. for our second panel. Thank you all.

12 (Whereupon, at 1:00 p.m., the public hearing
13 in the above-entitled matter recessed, to reconvene at
14 2:00 p.m. this same day, Wednesday, March 22, 2023.)

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1 CHAIR LINDENBAUM: It is, yes.

2 (Laughter.)

3 CHAIR LINDENBAUM: Ten out of 10.

4 FEMALE VOICE: Ten out of 10.

5 CHAIR LINDENBAUM: Yeah. Nailed it.

6 MR. HOH: Thank you so much. I can't wait
7 for my dogs to come and disturb everything then. But
8 thank you, Madam Chair. Thank you all for including
9 me in this hearing today. I am grateful for the
10 sincerity of this Commission in addressing the need to
11 expand the public's ability to participate in our
12 electoral system.

13 I believe revising the rules on candidate
14 compensation in the ways being expressed today will
15 broaden and deepen the pool of citizens in this
16 country who will be eligible to run for federal office
17 by removing financial and economic obstacles and
18 restrictions on potential candidates and their family.

19 Last year, I ran as a minor party candidate
20 for the U.S. Senate in North Carolina. Shortly after
21 organizing a campaign committee, I sought a
22 clarification from the FEC as to whether my veteran's
23 disability pension was considered earned or unearned
24 income for the purposes of determining a candidate's
25 salary. There was no ready answer to that question,

1 so I filed for an advisory opinion and met with the
2 Commission in January of 2022.

3 The Commission determined the veterans'
4 disability pension was unearned income, which is in
5 line with the IRS definition of veterans' disability
6 pension as unearned income. While I agree with the
7 decision based on how the IRS defined unearned income,
8 as well as the limited FEC guidance on the topic, I
9 recognize that such a restriction on candidate
10 compensation could have a limiting effect on people
11 who live with disabilities.

12 I think my disability is instructive on how
13 the current compensation rules are restrictive. The
14 primary nature of my disability that precludes me from
15 working and earning an income is a traumatic brain
16 injury from my time in the Marine Corps and the Iraq
17 War.

18 The migraines, extreme fatigue, and
19 cognitive dysfunction that can manifest from the brain
20 injury can and have prevented me from working. During
21 one period, I went five years without being able to
22 earn a paycheck. However, therapy, medicine, and a
23 great team of doctors at the VA have allowed me over
24 recent years to return to work, sometimes part-time,
25 sometimes full-time. It's a difficult process as

1 medical treatments will wear off, and it may take
2 months to find a treatment that will help.

3 So, in 2019, 2020, and 2021, I was able to
4 work during some months of those years. Halfway
5 through 2021, I began a new course of treatment that
6 has largely allowed me to be functional for the last
7 18 months. The timing in running a political campaign
8 was fortuitous, but, if not for my veteran disability
9 pension, which most people with disabilities do not
10 have, I would not have been able to financially afford
11 to run for federal office due to my previous gaps in
12 employment.

13 Running full-time with a disability and
14 having a second job would not have been possible for
15 me, just as I believe it would not have been possible
16 for many other people with disabilities.

17 The benefits of amending the current
18 regulations to allow for all candidates to receive a
19 candidate salary irrespective of their earned income
20 from the previous year will open the political process
21 to working and middle-class citizens and ensure people
22 with disabilities, as well as people with other recent
23 backgrounds, such as caregivers, students, retirees,
24 missionaries, and a host of other experiences, will be
25 able to support themselves and their families while

1 running for office. This benefit far exceeds the risk
2 of people enriching themselves through candidate
3 compensation.

4 I also want to add I fully support extending
5 coverage of healthcare expenses to campaigns. Not
6 being able to afford healthcare insurance for their
7 family is an immediate disqualifier for anyone with a
8 family from running for federal office. Running
9 competitively for federal office often means a year or
10 longer campaign, and I don't know anyone who would
11 sacrifice the security of their family's health for
12 such an effort.

13 As well, extending candidate compensation to
14 begin six months prior to the primary election is
15 absolutely necessary. This should include ballot
16 access deadlines for independent and minor party
17 candidates. Having led a successful statewide ballot
18 access campaign in North Carolina, I can assure
19 everyone that achieving ballot access is a full-time
20 effort.

21 Thank you for having me participate today.
22 I appreciate the willingness of the FEC to expand
23 access to electoral democracy to a larger segment of
24 the population. I am very happy to answer any

1 questions, particularly as to how this rule change
2 would affect independent and minor party candidates.

3 CHAIR LINDENBAUM: Thank you. And thank you
4 very much for your service.

5 Next up, we have Nabilah Islam, a former
6 candidate for the House of Representatives and a
7 current state Senator from the State of Georgia.
8 She's here with us in person.

9 Ms. Islam?

10 SENATOR ISLAM: Madam Chair and
11 Commissioners, my name is Nabilah Islam, and I am
12 currently a Senator in the Georgia State Senate.

13 During the 2020 cycle, I was a candidate for
14 Congress and filed the petition for rulemaking after
15 my campaign ended. I sincerely appreciate the time
16 and effort of the Commission and its staff in drafting
17 the proposed rules, as well as the unanimous support
18 of the commenters, who all agree that the Commission's
19 current regulations do not meet the needs of people
20 who choose to run for office and that the proposed
21 changes would be a step toward changing that reality.

22 I'd also like to thank the Commission for
23 affording me the opportunity to appear before you
24 today to discuss these issues further.

1 I began this petition process almost exactly
2 two years ago because I believed strongly that the
3 current system for compensating federal candidates
4 favors those with the means to go without a paycheck
5 or health insurance for months on end. The result is
6 that working people are under-represented in Congress
7 because they simply cannot afford to run for office.

8 During the 2020 cycle, I announced my
9 candidacy in February 2019, and for the 16 months that
10 followed, I was stressed into a state of financial
11 uncertainty. I could barely pay my rent or utilities.
12 I could not afford health insurance. I placed my
13 student loans in forbearance, and I depleted my
14 savings just to pay for the bare necessities.

15 All the financial strife was a result of the
16 current framework for compensating federal candidates.
17 Despite beginning my campaign in February 2019, I was
18 unable to receive a salary until March 6, 2020, which
19 is Georgia's primary ballot qualification deadline.

20 My lack of income during that time hurt my
21 ability to afford health insurance because I could not
22 pay the premiums. This situation was barely feasible
23 for me and is completely unsustainable for most other
24 working-class Americans, which is why I filed the
25 petition for rulemaking.

1 Turning to the proposed rules, as I noted in
2 my written comments, I urge the Commission to
3 implement a modified version of Alternative F for the
4 salary cap and either Alternative A or B for the
5 compensation definition.

6 I'm in full support of the other proposed
7 changes and would like to voice particular support for
8 the expansion of the eligibility period. However, I
9 strongly believe that healthcare and dependent care
10 expenses should not be counted towards the
11 compensation cap.

12 For the salary cap, I would urge the
13 Commission to choose Alternative F but to replace the
14 minimum wage piece with the minimum salary approach in
15 Alternative A. Doing so would allow candidates to
16 receive a salary equal to half the minimum salary for
17 the office sought if the amount is greater than the
18 candidate's average income over the past three years.

19 A salary based on the minimum wage is simply
20 insufficient to support the out-of-pocket expenses
21 required to work as a full-time candidate. For the
22 compensation definition, Alternatives A and B would
23 both help ensure that the candidate and their campaign
24 staff have the option to receive health insurance.

1 In the U.S., for most Americans, health
2 insurance is received from their employer, and no one
3 should have to voluntarily give up that precious
4 resource just to run for office or work on a campaign.

5 The rules proposed here would build upon the
6 Commission's first steps taken nearly 20 years ago
7 when it passed the existing regulations. If we want a
8 representative democracy with lawmakers that share our
9 lived experiences, you need to eliminate the financial
10 barriers that prevent so many qualified Americans from
11 running for office.

12 With that, I thank you for your time and
13 look forward to answering any questions you may have.

14 CHAIR LINDENBAUM: Thank you.

15 And next up is Odessa Kelly, a former
16 candidate for the House of Representatives. She's
17 here with us in person.

18 Ms. Kelly?

19 MS. KELLY: Good afternoon. My name is
20 Odessa Kelly. I am a working mom, a community
21 organizer, and a proud member of SEIU Local 205. I
22 strongly support these amendments, and I am honored to
23 be here today to tell you my story.

24 In 2019, I was first approached by Justice
25 Democrat to consider running for U.S. Congress after

1 being recommended by hundreds of people across this
2 country who were familiar with me and my work as a
3 community activist and organizer.

4 From March 2006 through August of 2019, I
5 spent every day working on the front lines of poverty
6 as a civil servant for the City of Nashville as an
7 employee of Parks and Recreation. I became a parent
8 at the very young age of 24, I didn't know if I was
9 truly an adult at that time, and got my first
10 apartment soon after.

11 A typical day for me was waking up at 5:30
12 a.m. every morning to make breakfast, get kids up and
13 off to school, spend my mornings with seniors playing
14 bridge and cutthroat spades, and then transition to
15 the afternoon and running one of the best afterschool
16 programs that the City of Nashville has ever seen and,
17 in between then, passing out food boxes to working
18 people.

19 Every night for close to 10 years I also
20 went to FedEx. That was a warehouse where I humped
21 every day four to five hours throwing boxes, I mean,
22 packages and boxes into trucks, and after years of
23 busting my butt to try to survive, I went back to
24 school to obtain my Master's degree in public
25 administration in an effort to move up the ladder in

1 management. I'll never forget receiving my first
2 management paycheck because it was at that moment that
3 I realized that I had just accumulated over \$50,000 in
4 college loans just to make \$38,000 a year.

5 I loved my job. I worked in an occupation
6 that had been deemed critical to be provided to the
7 public, but somehow I was supposed to raise kids, pay
8 bills, my college loans, and save money to buy a house
9 in one of the fastest-growing cities in America, the
10 place where I was born and raised, the place that's a
11 case study of gentrification and is currently
12 displacing its working class.

13 I give you this context because my story is
14 the same as millions of Americans across this country.
15 It's what made me a good organizer and an activist and
16 what makes me the kind of leader that so many in my
17 community wanted to elect.

18 When I was approached to run for Congress for the
19 first time and had to turn it down, I felt like a failure.
20 It had been my job to be engaged in all of Nashville's
21 communities. The successes and failures that I had garnered
22 through my career as a public employee had well prepared me
23 to take on the highest level of civil service, but when I
24 looked at the numbers, I knew that my family simply could not
25 afford for me to step away. We needed every paycheck to stay

1 afloat. That was the only time in my life that I ever felt
2 unpatriotic.

3 I'd been raised to take pride in doing well by
4 others, to make provisions for those who needed it, and to be
5 of service to my brethren. I was ashamed that I could not
6 live up to being the best version of myself because I was
7 simply a member of the working class.

8 I launched my congressional campaign April 5, 2021,
9 not because I had suddenly become wealthy but because the
10 needs of my community had become too dire for me to ignore.
11 With the support of my union, family, friends, and the
12 endorsement of organizations like Justice Democrats, The
13 Collective PAC, and Way to Win, I was able to launch my
14 campaign, continue to work full-time, and campaign in the
15 rest of the time. Don't even ask me about getting sleep.

16 We had launched that early because it was
17 challenging, it was going to be a challenge to take on one of
18 the longest-serving members of Congress, 39 years he had
19 served, who also at the time was one of the richest men in
20 Tennessee and had a nearly a million dollars in campaign
21 money on the day that we had just launched our campaign.

22 We knew it would take an individual of my
23 background at least 15 months to campaign and fundraise just
24 enough money to cover the essentials needed to run a solid
25 campaign. I worked my full-time job from the launch in April

1 through January of 2022. Those eight months were some of the
2 most grueling and difficult months of my life, and that's
3 considering that we had just came out of the trials and
4 tribulations of a global pandemic.

5 I put my heart and soul into that campaign, but the
6 reality is you can't give a hundred percent when you're
7 working a full-time job. I took a leave of absence around
8 March of 2022 so I could campaign full-time and didn't
9 receive a salary from the campaign until May of 2022. I
10 didn't get a paycheck for nearly two months because I was
11 afraid that was money I was taking from a field organizer or
12 another position I may need.

13 Think about that. In a nation where most Americans
14 don't have enough savings to cover a thousand dollars in
15 emergency funds, having to take the time to take off without
16 income is a huge barrier for running for office. Running for
17 office to represent my community and Congress was a
18 tremendous honor, and I wanted to give the campaign
19 everything I had, but I'm still paying that debt off, even
20 the debt that I accumulated through those two months.

21 I should be a U.S. Representative right now. Do
22 you realize that Nashville is nearly 1 million people? It is
23 the largest and most populated city in Tennessee, yet we have
24 no reflection, zero representation, at our highest level in
25 the U.S. Congress. I lost my bid to represent my city mostly

1 due to redistricting and gerrymandering, but the burden of
2 salary cannot be dismissed in this equation.

3 I ask that this Commission do its part to preserve
4 our democracy by improving the salary rules for candidates,
5 which will, in turn, create more balance for those like
6 myself who share the lived experiences of the majority of
7 Americans to represent our country at its highest levels.
8 Thank you.

9 CHAIR LINDENBAUM: Thank you.

10 Next up will be Shrina Kurani, a former candidate
11 for the House of Representatives. She's with us in person.

12 The floor is yours.

13 MS. KURANI: Thank you, Madam Chair. Thank you,
14 Commissioners. Thank you for the opportunity to testify
15 today on the importance of improving access to representation
16 and removing barriers for everyday working Americans to serve
17 our communities and our country.

18 My name is Shrina Kurani, and I'm a native of
19 Riverside, California, where I was born and raised and where
20 I ran for United States Congress in 2022 in California's 41st
21 Congressional District.

22 I'm an engineer and an entrepreneur, having built
23 companies addressing issues in our food systems, for water
24 quality, and addressing financial inequality, and I'm now the
25 managing partner of Snow Cap, a venture capital firm focused

1 on deeply scientific technologies to address climate change
2 that will enable us to live in a safer and a healthier world.

3 I'm here to address the proposed changes to the
4 Federal Election Commission's regulations due to my expertise
5 and personal experience as a candidate.

6 I also want to clearly state that I am in full
7 support of proposed changes to allow candidates, as it passes
8 the irrespective test, to have financial support earlier in
9 the campaign cycle and up to the minimum office-holder
10 salary, with a reduction for other earned income, in order to
11 combat the incumbency advantage and to preserve the status
12 quo.

13 Were it not for the passion for serving our
14 communities and accompanying campaign responsibilities,
15 candidates would not have to leave their jobs and give up
16 their salaries and employment benefits and, consequently, our
17 representation in federal office becomes limited to those who
18 can afford it.

19 I'm the daughter of immigrants who came to America
20 with less than \$30 in their pockets. I learned from my dad
21 that it's our duty to serve our communities, and I watched
22 him serve as a Planning Commissioner at our local Chamber of
23 Commerce, and after almost a decade of community service, he
24 ran for City Council while running a brick-and-mortar small
25 business, canvassing in the evenings because our store was

1 open seven days a week, which meant my parents didn't take a
2 single day off over 10 years. I saw firsthand the sacrifices
3 my parents had to make and how already then as a small
4 business owner he struggled to both provide for his family
5 and meet the demands of the campaign.

6 Fast-forward 15 years. While building a company to
7 democratize access to capital for under-represented
8 entrepreneurs, I launched my campaign for United States
9 Congress against a 30-year incumbent who makes at minimum
10 \$174,000 while in the same year combined, my income combined
11 with my husband, was under a hundred.

12 I filed my statement of organization with the
13 Commission 16 months before the general election and 11
14 months before the primary and began dedicating over 20 hours
15 a week while working full-time. Through my work, as I was
16 focused on facilitating hundreds of millions of dollars to
17 under-represented entrepreneurs across the country, I
18 acknowledged the discrepancy in support for under-represented
19 candidates.

20 I would begin my outreach at 6 in the morning to
21 supporters across the country in different time zones for
22 three hours before beginning my workday and again after work
23 until 9 p.m. to reach constituents on the West Coast five to
24 six days a week. It was almost a full-time job on its own.

1 Eight months before the election, my schedule
2 included 30 hours of fundraising call time a week while
3 working over 40 hours a week for my company and dedicating
4 nights and weekends to community outreach. Six months before
5 the primary, I had to step down from my company because it
6 was necessary for me to ramp down to 40 hours a week -- or,
7 I'm sorry, ramp up to 40 hours a week for just call time, not
8 to mention preparing for candidate forums, attending events,
9 or outreach and canvassing, which would average 80 hours a
10 week.

11 My story is not unique. These are the tradeoffs
12 everyday Americans who are active members of our communities
13 have to make when campaigning to represent our hometowns on
14 the federal level.

15 I wasn't aware that I could take a salary during
16 the campaign, and so my husband and I tapped into our
17 savings, and as I now support women and people of color
18 across the country who have yet to put their hat in the ring,
19 they're struggling to balance jobs with starting their
20 campaigns, with the fear that if they quit, they won't be
21 able to pay rent.

22 Personally, as I look forward to the future, in
23 mine and my husband's current financial situation, we would
24 likely have to go into debt to run another campaign if the

1 rules are not changed. So, realistically, the financial cost
2 would prohibit me from running again.

3 According to the Census Bureau, in 2021, the median
4 per capita income in Riverside County where I ran was
5 \$32,000. A general election candidate raised over 3 million,
6 but for someone who makes 32,000 when they're working full-
7 time, that would encompass just 1 percent of total campaign
8 funding but allow a candidate to pay rent, take care of their
9 basic expenses while working on average 80 hours a week.

10 The Federal Election Campaign Act prohibits the
11 personal use of campaign funds for good reason, and I am in
12 support of the Act's irrespective test as it stands to
13 provide benefits, including salary, that would otherwise be
14 in place.

15 In conclusion, the time commitment of campaigning
16 for federal office does not allow candidates to work a full-
17 time job, and the potential financial impact makes it
18 impossible for many people to even run. While the current
19 rules "help ensure that campaign salaries are not used to
20 enrich candidates," the unfortunate reality is that the
21 current campaign landscape benefits rich candidates. Thank
22 you.

23 CHAIR LINDENBAUM: Thank you.

1 Our fifth and final this afternoon is Liuba Grechen
2 Shirley, a former candidate for the House of Representatives.
3 She is here with us in person.

4 MS. SHIRLEY: Thank you very much. My name is --
5 can you guys hear me with this? My name is Liuba Grechen
6 Shirley. I am a former congressional candidate and the
7 founder and CEO of Vote Mama.

8 Thank you for including me today on this panel and
9 for considering these proposed rules changes that build upon
10 my 2018 FEC ruling to make it easier for working parents, to
11 make it easier for working people to run for office.

12 In 2018, I ran to represent New York's 2nd
13 Congressional District against a nearly 30-year incumbent,
14 and my kids were just 1 and 3 at the time. My mom was still
15 teaching. She would come home every day at 3:30, and she
16 would watch my kids.

17 And I had two toddlers in tow all day. I would be
18 nursing my son, or my daughter put a million hair clips in my
19 hair, and I would be doing call time. And for six months, I
20 built forts, and I changed diapers, and I made lunch, and I
21 dealt with two tiny babies, and I had a phone, not a phone,
22 but a headset attached to my head, and I raised money to run
23 against somebody who had been there for nearly 30 years.

24 My schedule was unsustainable, but so was picking
25 up the cost of childcare after giving up my salary to run for

1 office. We were struggling to make ends meet during that
2 entire campaign. Six months into my campaign, I submitted a
3 request to ask if I could use some of the funds that I was
4 raising for my campaign on childcare. I was told that I was
5 crazy. I was told it was political suicide.

6 I was told that everybody was going to attack me
7 for being a woman and a mother, and I did it anyway. And I
8 remember coming into this room and seeing Commissioner
9 Weintraub and being genuinely terrified that it would be the
10 last day of my campaign. My children were running around the
11 back of this room. I have a really hilarious video of it,
12 and I didn't know if you would approve my request, and there
13 was no way I could continue to campaign without childcare.
14 It was impossible.

15 To my surprise, you issued a unanimous bipartisan
16 decision, and you changed the way that working parents run
17 for office, and we have now seen over 50 federal candidates
18 use their campaign funds for childcare, dads and moms,
19 Democrats and Republicans.

20 Five years ago, I sat right here and I submitted
21 testimony in strong support of ensuring that candidates would
22 be able to use campaign funds for childcare. Now I am asking
23 you to allow federal candidates to use their campaign funds
24 to pay themselves a livable wage, to cover dependent care
25 expenses as well, and to pay for health insurance.

1 Childcare obligations are one of the major factors
2 that families consider when making a decision to run for
3 office, and it is the number one factor that moms make.

4 I was asked by many people in my district, what do
5 we need to do to convince you to run right now? And I
6 remember laughing and thinking, well, I need childcare, and I
7 didn't think it was a possibility. After my campaign, I
8 launched Vote Mama to build the political power of moms
9 across the country and to break down the structural and the
10 cultural barriers that moms face when they run and when they
11 serve.

12 I know firsthand these barriers, and I have now
13 worked with over 400 moms running across the country, and the
14 number one question every mother gets asked is, who will
15 watch your kids while you campaign? Men don't get asked that
16 question. Every single woman does.

17 Vote Mama Foundation is the only organization
18 working with legislators across the country to now expand my
19 FEC ruling for state and local candidates. Our goal is to
20 get all 50 states to approve the use of campaign funds for
21 childcare and dependent care for state and local candidates.

22 As of today, 28 states have now approved the use of
23 campaign funds for childcare. In 2023 alone, Vote Mama
24 Foundation has worked with Republican and Democratic
25 legislators to introduce 19 bills in 13 states to allow the

1 use of campaign funds for childcare. Eight of those states
2 also include coverage for broader dependent care.

3 Vote Mama Foundation has helped pass campaign funds
4 for dependent care expenses specifically in six states,
5 Colorado, Illinois, Kentucky, Vermont, Washington, and West
6 Virginia.

7 The coverage of dependent care expenses is
8 particularly important for candidates in the sandwich
9 generation, for those who are caring for young children and
10 our aging parents. Women are disproportionately more likely
11 to assume caregiving responsibilities in both sets of
12 circumstances and are more likely to not run because of the
13 burden of caregiving.

14 In the last month, I have spoken with two
15 candidates, two potential candidates. Both were single
16 mothers. One had two daughters, and one has a son and an
17 aging mother. Both were set to run. One had actually
18 launched her campaign, one was about to, and they both
19 realized that because of their caregiving responsibilities it
20 wouldn't be possible, and they decided not to run. And yet
21 those are exactly the voices that we need in Congress because
22 they understand these issues.

23 Just as candidates need to be able to use campaign
24 funds for childcare and dependent care, they need to earn a
25 livable wage. I had to quit my job to run full-time while

1 still being a mother full-time, and being able to hire an on-
2 staff babysitter made a huge difference, but it wasn't
3 enough. This system, as we have heard very clearly today,
4 was not designed for working people to run for office. It
5 was designed to keep wealthy people in power. Most people do
6 not realize how difficult it is to run a campaign. It takes
7 a year to two years of your life, 18 hours a day minimum.

8 We don't realize right now that there are more
9 millionaires in Congress than there are moms of minor
10 children. There are more men named John in the Senate than
11 moms of minor children.

12 Candidates would need to save up to two years of
13 living expenses just to make ends meet to run for office.
14 That's not feasible for most Americans. That is why we have
15 a government that is not really truly representative of our
16 society.

17 By allowing candidates to pay themselves a living
18 salary from their privately raised campaign funds, the U.S.
19 has an opportunity to completely transform the political
20 landscape. If we want to change our policies, we have to
21 change who has a seat at the table.

22 Candidates should also be able to take their
23 salaries from their campaign from the day that they file and
24 have raised enough money to afford to do so, not from the
25 time that they make the ballot, because most candidates are

1 running for at least a year before they make the ballot, and
2 that makes it incredibly difficult for anyone to be able to
3 do that if you are not independently wealthy.

4 The level of salary, as everyone here has also
5 said, should not be tied to what they earned the previous
6 year because that leaves out caregivers; that leaves out
7 someone who had a child; that leaves out someone who was
8 taking care of an aging parent; somebody who was a student;
9 somebody who had a medical issue. Your salary should not be
10 tied to what you made the year before.

11 I spoke on a panel with other 2018 candidates who
12 came close to winning right after my campaigning, and
13 somebody in the audience asked a question. They said, "Who
14 plans to run again?" And we went down the panel, and
15 everybody, except for one person, said they couldn't afford
16 to. Someone had maxed out their credit card; someone had
17 taken a second mortgage on their house. I took a lot of
18 money out of my retirement account. None of us were able to.

19 And one of those candidates came up to me
20 afterwards and she said, when you run again, can you please
21 make a big a deal as you did about childcare but do it about
22 taking a salary because, if you do that, I might be able to
23 eventually step up and run again.

24 Federal candidates should be able to use their
25 campaign funds to also pay for health insurance premiums and

1 other related benefits. There are candidates running for
2 office across the country without access to healthcare, and
3 this is a major failing of our system, and it's unacceptable,
4 especially during a global pandemic.

5 Five years ago, I sat here and I testified before
6 the FEC so that we could make it easier for parents to run
7 for office, and now I'm asking you to please expand that
8 ruling to make it easier to break down further structural
9 barriers so that we can have more working people in office.

10 We have more millionaires in Congress, and we don't
11 have enough everyday people, people who actually understand
12 how these issues affect people's lives, people who understand
13 how most Americans live their lives.

14 I am asking you to break down these structural
15 barriers. I am happy to answer any questions, and I thank
16 you very much for your ruling in 2018 and for considering
17 these proposed changes.

18 CHAIR LINDENBAUM: Thank you. And thank you all
19 for telling us your story. Often, at this agency, we're
20 dealing with things in abstract terms and hypotheticals, but
21 by you telling your story, putting yourself out there, it
22 really does help us have these conversations.

23 You also serve as a wealth of information on how
24 these campaigns are actually run, how hard it is to raise
25 money, how much time call time takes, and I'm really

1 interested to see the questions that my colleagues are going
2 to have for you, and I will just before I pop it over to
3 them, I will also just thank you for making this really a
4 movement. Many of you have really started this. You have
5 raised the alarm. You know, sans relief in 2018, this was
6 something you were very, very proud to do and to start, and
7 it really kicked off a lot of changes across the country, and
8 it took a client to get that moving, and then, again, it just
9 continued. So thank you all, and we really appreciate that.

10 So I will start off with Commissioner Broussard.

11 COMMISSIONER BROUSSARD: Thank you, Madam Chair.
12 Just to kind of join in your comments, I think one of the
13 main things we should say is what a great representation for
14 National Women's Month, Women Rock, as I like to call it.

15 So just looking, and thank you, Mr. Hoh, too
16 because you gave reference to that great group. So thank you
17 all for doing what you're doing and, of course, for giving
18 your proposal on this.

19 I want to kind of jump in to a question about the
20 health insurance community to the extent that you helped
21 those. First, I'm going to ask Ms. Kelly -- Ms. Shirley,
22 excuse me, and then speak to Ms. Kelly. But I'll go down the
23 line if anyone else would like to jump in.

24 Let's say that a candidate is about to draw a
25 hundred percent of the office-holder salary from their

1 campaign committee. Tell me why you think they should still
2 be able to get dependent care if they're getting a \$174,000
3 salary. And if you think so, let's think about it like this.
4 Healthcare premiums, as everyone has testified, we generally
5 find those by employment, so we see that connection, but it's
6 not generally the same for dependent care costs. So is that
7 enough of a distinction that we should be thinking about that
8 becomes a cost that's taken directly out of your individual
9 obligation or, as we do now, in your -- specifically to a
10 campaign office?

11 MS. SHIRLEY: Yeah. Thank you for the question. I
12 cannot tell you of a single candidate who would want to take
13 \$174,000 out of their campaign to pay themselves a salary and
14 then on top of that pay for their childcare or dependent care
15 or healthcare. Most people don't want to spend that money
16 because any money you take out of your campaign is money you
17 can't spend to win. People don't run for office because they
18 want to take a salary. They run for office because they want
19 to serve their constituents.

20 So I can understand that question. I don't think
21 it's something that you will be faced with, and, frankly, if
22 somebody does do that, it should be up to that person to
23 decide what their needs are. We don't know what their needs
24 are. I don't think we should be making a decision on how

1 much they can take in terms of whether or not their salary is
2 174, whether or not they have childcare on top of that.

3 I made the comment once during my campaign. A
4 reporter asked me about my babysitter, and I was serious, and
5 I said my babysitter is as important to my campaign as my
6 campaign manager, which my campaign manager didn't love, but
7 it was true. She was a member of our staff. She was paid
8 like the rest of our staff, and she was necessary for us to
9 run that campaign. But no one is going to want to abuse that
10 because it hurts their chances of winning. They will want to
11 take what they can to survive.

12 COMMISSIONER BROUSSARD: Thank you. So, in
13 thinking about it from a candidate's perspective, would you
14 consider us giving it to you for a tax, what an incumbent
15 does, or should they be allowed to do other things?

16 MS. SHIRLEY: Actually, I think that this should
17 only be for some candidates. Incumbents have a salary.
18 They are campaigning all the time, and they have a salary.
19 They don't have the same problem. They make their income --
20 they earn their income, and they're doing call time round the
21 clock. When you are in office, you still do 25 hours of call
22 time a week. You're still raising those funds.

23 So I don't think that taking a salary -- I still do
24 think that you should be able to use campaign funds for
25 childcare out of your campaign account, but I don't think you

1 need to take a salary because you already have a salary and
2 you already have health benefits. But I fully agree with
3 being able to still use your campaign funds for childcare for
4 incumbents and dependent care.

5 COMMISSIONER WEINTRAUB: Thank you, Madam Chair.

6 Could I just ask a -- well, first of all, let me
7 thank you all for a incredible presentation of your stories
8 and for sharing them with us. It really enriches our
9 understanding, and as the Chair said, it's very different
10 from the usual kind of testimony that we get here from a
11 group of Washington insider lawyers while they're arguing
12 about subparagraphs of the regulations, which we will have to
13 deal with.

14 But I want to ask a clarifying question, Ms.
15 Shirley, and it's a pleasure to see you again. You said you
16 thought it should only be for first-time candidates. Did you
17 mean non-incumbents?

18 MS. SHIRLEY: Non-incumbents, yes, not first-time.
19 I meant non-incumbents, just for the salary. I am fully in
20 support of campaign funds for childcare and dependent care
21 even if you're an incumbent, but you earn a salary when
22 you're an incumbent. If you're already there and you're
23 earning a salary, I don't think you need to pay yourself an
24 additional salary from your campaign funds.

1 COMMISSIONER BROUSSARD: I think my question might
2 have been unclear. It's not an intention for an incumbent to
3 take a salary in a check if they're already getting funds.
4 So, with that understanding that we're not expecting the
5 incumbent to get \$340,000 a year, do you think that they
6 should be entitled to still use campaign funds for childcare,
7 dependent care expenses?

8 MS. SHIRLEY: I do.

9 COMMISSIONER DICKERSON: Thank you, Madam Chair.
10 And thank you. I'll join the chorus. So I am a lawyer by
11 training, so I'm used to showing up at things like this, but
12 I recognize that appearing in front of a federal commission
13 and having big, legally fraught conversations may not be I'll
14 just say comfortable. So I appreciate all of you taking the
15 time to do it. I just want to ask some factual questions
16 because, you know, I have written comments from some of you
17 but not all of you, and I've read all of those.

18 You know, Senator Islam, I want to especially thank
19 you because I thought from the range of comments your sort of
20 approach to the candidate salary cap was, well, very
21 thoughtful. So I don't know where we'll end up, but I
22 appreciated you kind of wrestling with these questions that
23 we were talking about on the first panel.

24 So I have answers from some of you from your
25 openings, but what, for those of you who have not yet

1 commented, and I think, Ms. Kelly, you may not have taken a
2 position, what do you think is the appropriate cap?

3 We're hearing a lot about the level of pay per
4 member of Congress as being the appropriate cap. In my
5 previous panel, for those of you who didn't see, I kind of
6 pointed out that maybe the job as a member of Congress and a
7 candidate are different in part because you have to maintain
8 two households. Do you have a view on this?

9 MS. KELLY: Commissioner, I don't -- I think I'm in
10 support of the amendment and raising it, and that's the
11 reason why I gave the context. I think policy doesn't always
12 stand up smoothly in how it applies and how it could be
13 applicable.

14 Me being a black woman from a working poor
15 background and taking a job in civil service, I was never
16 going to get rich. That was never my dream to get rich. But
17 me running against a cisgender white male who came from means
18 before he even ran for office, it already causes an
19 imbalance.

20 So, when you ask about what is appropriate, I think
21 it's appropriate to consider what we're saying not because
22 we're trying to make extra money but because we want to run
23 good solid campaigns.

24 Now, as far as the cap of matching to where a
25 candidate is, I think, earlier you had individuals talking

1 about looking at it from a market value approach versus an
2 opportunity, and I agree that just because 174 gives you the
3 margins. So I heard you giving a lot of what ifs, and I
4 respect, I understand that you all have to take those into
5 considerations, but I think it's more feasible to approach it
6 from what's practically happening.

7 COMMISSIONER DICKERSON: If I may. My other
8 question is the other side of this, which is the duration.
9 And I think I'm hearing you correctly, but I just want to
10 make sure the record's clear. As I think you all know, the
11 current regulation is, you know, when you have to file under
12 the state law is the beginning point. I guess I can just ask
13 for a show of hands. Is there anyone who does not think that
14 the filing of the candidacy form with the Commission should
15 be the starting date?

16 MS. KELLY: For clarity, do you mean to receive a
17 salary?

18 COMMISSIONER DICKERSON: To become eligible to
19 receive a salary.

20 MS. KELLY: May I say more?

21 COMMISSIONER DICKERSON: Of course. Yeah.

22 MS. KELLY: So, again, I launched my campaign
23 August 5, 2021. The filing date was April 7 -- I'm sorry. I
24 launched April 5, 2021. The filing date was April 7, 2022.
25 The reason we had to start so early is because everyone knows

1 that you have to have money to run a solid campaign for all
2 the reasons, pay staff, go tit for tat, right? And a lot of
3 this was for the last 30 and 45 days, you want to be able to
4 get on TV and radio and do as much touches as you possibly
5 can.

6 Well, I couldn't turn -- when I first started
7 campaigning, doing the call time she was talking about and
8 asking family members and friends, I gave out more \$20 bills
9 than I collected. And I say that not to be funny but to be
10 realistic. There was no one who could -- I couldn't write
11 myself \$50,000 to float me until I started gaining some
12 momentum with those things. And so we had to start that far
13 out so that we could just raise enough money to be able to
14 have just the solid things that you need in a campaign, a
15 campaign manager, a field organizer, and the ability to pay
16 people to do calls and all those things, to give you the
17 visibility to be relevant in other ways.

18 COMMISSIONER DICKERSON: So your preference would
19 be eligibility at the moment you set up your campaign
20 committee, or is there another trigger that you have in mind?

21 MS. KELLY: I don't know if I have a set date in
22 mind, but I think that the reality is is that if we want to
23 have equity and representation for people across the United
24 States, then we need to be realistic about not everyone is

1 going to come from means, and there are working-class
2 individuals who want to run for office.

3 COMMISSIONER DICKERSON: Yeah. Thank you.

4 MS. KURANI: I just want to clarify my position
5 that I do agree with the date being the filing of the
6 statement of organization. I think that at least, and from
7 my understanding of the existing FEC rules, outside of how
8 you have to be in a campaign, when you can start fundraising
9 and all of that, was roughly we filed our papers as we
10 launched our campaign. And so, to me, that would be a fair
11 trigger point.

12 MS. SHIRLEY: Yeah. These rule changes level the
13 playing field. When I launched my campaign, there was
14 another man who had already gotten into the primary who was a
15 multimillionaire who had donated a million dollars to
16 himself, who did not need a salary, and nobody took me
17 seriously. They all said let's support this man. He has a
18 million dollars to spend on his campaign. He didn't know any
19 of the policies, and he ended up dropping out a month later.

20 But the point is that changing this so that you can
21 start taking a salary when you first launch your campaign,
22 everything that proves that you have strength as a candidate
23 comes down to fundraising. If you don't have the ability to
24 spend that early time fundraising, you're dead in the water.

1 I was told in the beginning you have to raise
2 \$100,000 before anyone will take you seriously. I had two
3 babies and had spent my career working in nonprofits. I had
4 no idea how I was going to do that, but I did. But the point
5 is you need that time, and we even heard today that so many
6 people continue to work their full-time jobs while
7 campaigning in the beginning because they have to, and then
8 they step back.

9 If you have the ability to pay yourself a salary
10 right away, once you start raising enough, you have the
11 ability to sit and do 30 hours of call time, and that's
12 necessary to actually show that you are a strong candidate
13 and can actually challenge whoever you're running against.
14 Without that, no one takes you seriously and you lose
15 momentum.

16 CHAIR LINDENBAUM: One of the questions in one of
17 the discussions we had this morning was about, you know,
18 protecting against grifters, right, you know, people that are
19 going to use this to abuse the process. We certainly see
20 that in the PAC context where we have people that may be
21 setting up PACs and pocketing the money and putting them
22 through LLCs. And I'd like to understand from you all how
23 realistic you think that would be for somebody to go about
24 trying to pretty much make money off running for office like
25 this? So, if you'd like to, I'm not going to ask you to go

1 down the line, but do you know how much your campaign raised,
2 how many hours of call time did you spend, and how hard was
3 it?

4 SENATOR ISLAM: So I raised about \$750,000 for my
5 congressional campaign, and I made over 10,000 phone calls.
6 They have figured out a way to make humans make an insane
7 amount of calls every day, and I did that.

8 And so that being said, these salary benefits are
9 not a subsidy, right? We still have to pick up the phone and
10 cold call, and I did not have, you know, a lot of -- I don't
11 come from a rich background. So, like, literally, it was
12 small dollar donations. And so it's extremely hard to raise
13 this money, and I did it over 16 months, including during a
14 pandemic, and I would also say that there is transparency
15 because, you know, you still have to file with the FEC every
16 quarter so you can see how much you're getting in salary
17 benefits.

18 And then, with that being said, I think people
19 would quickly realize if it was a gift, and also you have to
20 run a real campaign. Like, we need pitch people. It's like
21 they want to know your campaign plan. They want to know who
22 is on your team. They want to know, like, you know, what's
23 your path to victory. If you don't have those things, people
24 are not going to give you money. And so I don't think that

1 this will lead to -- if people do try to grift, they're going
2 to fail, but I'm not worried about that.

3 MS. SHIRLEY: I raised a little over \$2 million,
4 and I was doing 30 hours, 40 hours of call time a week.

5 My son, who was 1 at the time, broke his leg and
6 ended up in a body cast, and I didn't take a break from call
7 time. I had a baby in a body cast nursing with a headset on.
8 There is no way to take a break from raising money and run a
9 successful campaign.

10 I would do call time all day. I would go to
11 events. I would go to candidate forums. I would go home and
12 put my children to sleep, and my staff would come to my house
13 and make me call California. And I would call all hours of
14 the day and night, and that is what I did for a year and a
15 half.

16 We have grifters currently in Congress. The
17 current rules do not protect us from electing grifters. This
18 rule change allows working people to have a chance to get
19 into Congress, to have a chance, a fighting chance, to
20 represent people in their district.

21 I'm not worried about anyone trying to run for
22 Congress to earn an income because it is hell. You give up
23 your entire existence to a group of young people who are
24 these amazing staff members, but they control your life. You
25 don't have time to do anything with any of your friends or

1 family, and that is what you give up to run for Congress. No
2 one will do that.

3 And call time, especially when you have to do cold
4 calls, it's really uncomfortable. You have to sit there and
5 introduce yourself and tell them why you're running and tell
6 them exactly, as Nabilah just said, how you're going to win.
7 No one will do that to give themselves a salary. It is a lot
8 easier to get a different job and to not have to go through
9 that.

10 CHAIR LINDENBAUM: Mr. Hoh?

11 MR. HOH: Yes. So, again, I was a minor party
12 candidate, and the difference in terms of fundraising for
13 independents or minor party candidates is really drastic. We
14 don't have the networks, we don't have the infrastructure.
15 There's no ActBlue. So as well as too your staffing, you do
16 not have staffing you can rely upon. So, for independent and
17 minor party candidates, you are doing a lot more, I think, I
18 don't want to presume, but you are doing a lot more than
19 major party candidates.

20 The idea of being able to devote yourself just
21 strictly to fundraising as an independent or a minor party
22 candidate, it doesn't exist because you are doing so many
23 other things. You're doing your social media. You know, you
24 may have a legal issue that you have to deal with directly,
25 you know, and then particularly, if you are trying to get on

1 the ballot through ballot access, I wasn't on the ballot
2 until August, right?

3 So, you know, the idea that you have this time
4 where you want to campaign, people are going to give you
5 money when you're not even on the ballot yet? So you have
6 these other aspects of fundraising for minor party,
7 independent candidates, that comes back to this idea of how
8 full-time is this for someone running as, you know, a non-
9 major party candidate.

10 I think the issue with the expenses, my view on
11 this is to go back to a couple other questions, is I think
12 all this should be treated simply as campaign expenditures,
13 you know, the idea that this is a campaign expenditure just
14 as any other form of campaign expenditure. It's no different
15 than putting gasoline in your car or paying for air time on
16 the radio or paying for a staffer.

17 I will also say this could be an anecdote about one
18 of the things too for minor and independent party candidates
19 that make it difficult, and it is in some ways preventative
20 because we don't have the expertise in terms of dealing with
21 the FEC. So you do not have the professional treasurers, you
22 do not have the professional campaign managers who have the
23 experience in terms of the reporting requirements, in terms
24 of the regulations, in terms of the guidelines.

1 Just from my own experience in terms of the money
2 here, in terms of personal money, my sewer line at my house
3 went out the week after the election. Anyone who's ever had
4 their sewer line back up into the bathtub knows exactly what
5 I'm talking about. Not something anyone -- I don't want to
6 wish that on anybody, right?

7 Thank God it happened after the election because I
8 didn't have the money in my bank account to get that fixed.
9 If it happened before the election, I wouldn't have been -- I
10 would have been scared to death to take money from my family
11 to pay to fix that because I would have felt like, oh, my
12 God, I am in danger here of violating some rule of receiving
13 compensation from an outside source while I'm running a
14 federal campaign, you know, and whether or not that would
15 have been the case, I didn't know -- I didn't want to take a
16 chance. I didn't want to take that risk.

17 So I think, when you're looking at folks who are
18 coming in from the outside to campaign and you have
19 independents or minor parties, there's a lot of
20 considerations.

21 One of the things that I've found as I've met other
22 people who have done this around the country is that they are
23 so afraid of the reporting requirements that they don't raise
24 money. And, of course, all that they are is a paper
25 candidate, and that's not very serious, that's not

1 competitive, and it really is doing a disservice, I think, to
2 the electoral system.

3 So I think any way we can make this process
4 simpler, easier to understand, easier to approach from the
5 outside, while still maintaining the requirement for
6 regulation and oversight, because absolutely there are going
7 to be people who cheat. But I think that the benefit of
8 expanding this, as my fellow panelists have done such an
9 amazing job of articulating, the benefit of expanding access
10 to our electoral system far outweighs the risk of somebody
11 trying to make some money off of it.

12 CHAIR LINDENBAUM: Commissioner Broussard?

13 COMMISSIONER BROUSSARD: Thank you, Madam Chair. I
14 want to go to something that Mr. Hoh mentioned and something
15 that we've talked about before when the Chair asked about the
16 grifters and worrying about the grifters.

17 If you chose to take candidate salaries and you
18 would take it at the time you're allowed to -- you know, the
19 ballot access or when the primary is coming, you have to
20 report this, and you have to report -- maybe you might --
21 maybe your salary would have matched up you taking \$7,000 a
22 month. Maybe your salary might have matched up to something
23 on the lower end, or maybe it matched up to zero.

24 As former candidates, do you have a concern that if
25 you did accept a salary, that someone -- your constituents,

1 like, people are going to look at this and that they were
2 going -- or maybe the incumbent challenger was going to make
3 this an argument against you. So did that have in the back
4 of your mind kind of a safeguard to tell you, if I took it,
5 be careful. Maybe don't take too much. Maybe not take as
6 much as I'm entitled to. I'd like to know from your
7 experience if you had any of those considerations. Thank
8 you.

9 SENATOR ISLAM: To be frank, I originally felt
10 shame, embarrassed, but as I ran for office, I quickly
11 realized that I wasn't the only person going through this,
12 and, you know, I learned that the way that the current
13 framework is set up isn't -- it makes it harder for working
14 people to run for office and, you know, run a sustainable
15 campaign, let alone a sustainable life. And so it should be
16 normalized that candidates should be able to not have to go
17 broke when they run for office. You should not have to go
18 through financial destruction in order to represent your
19 community.

20 And I think this is the benefit of us all sharing
21 our stories, is that people need to know the reason that we
22 don't have reflective representation of a diversity or values
23 or economic diversity in Congress is because we can't afford
24 to get there. So there might be political consequences in

1 the beginning, but I truly believe that this is a necessary
2 fix that needs to be done in order to help our democracy.

3 MS. KURANI: I just wanted to quickly share that I
4 actually didn't know that I could take a salary, and
5 reflecting on the fact that I could have, as much as I'm
6 fully advocating for this, I feel like the entire team around
7 me would have told me not to because it would have reflected
8 poorly on my campaign.

9 So, when we talk about grifters, I was just making
10 some notes, I did over 1500 hours of call time. If you're
11 stealing money from this, you're ripping off at least
12 initially your friends and family. And then you're spending
13 a lot of time in a really inefficient process. Really, no
14 one wants to do this, right? So I think that's just
15 something to recognize, is the time, the input, that goes
16 into it. There's a lot better ways to make money. So I just
17 wanted to acknowledge that.

18 And then I also wanted to double down on the
19 reporting and transparency piece because I do think there are
20 good practices in place that makes sure that we report all of
21 our expenditures, everything going out, and so, you know,
22 that's all public information, and that's something that you
23 will be held accountable to.

24 MS. KELLY: Sure. It stressed me out. It
25 definitely did. I think even after I had realized that I

1 could take a salary, I did not want to for those reasons that
2 everyone else just expressed. And also too, me and my
3 cabinet, people who were close to me in the campaign, we
4 argued over it a lot, you know, for those reasons of whether
5 it would look poorly in me taking the campaign.

6 But the reality is someone earlier spoke of the
7 catch-22, you know. You can either -- you have to be all in
8 if you're going to run a solid campaign is all you know, and
9 it's impossible to be all in and work a full-time job. You
10 just can't do it.

11 It is also crazy to think that it's the patriotic
12 thing to garner a bunch of credit card debt or get a possible
13 lien on your home or, as I did, ask your children not to
14 participate in their afterschool activities so you can have
15 that extra income to go toward a campaign.

16 MS. SHIRLEY: You will be politically attacked no
17 matter what. People will absolutely use it against you. It
18 is a political liability. We do have to normalize it.

19 Even after you approved the use of campaign funds
20 for childcare, we have been working with candidates across
21 the country who are afraid to use it because their staff told
22 them not to because they will be politically attacked.

23 People found out where my daughter went to daycare.
24 They looked at my FEC filings, and they called her daycare
25 center, and that happened to other candidates as well, and

1 there were other congressional candidates who ran the cycle
2 after me who they were afraid of actually putting the
3 location and the place where they were spending money because
4 they didn't want their children to be harassed.

5 It is a reality that people will find out where
6 you're spending this money because everything is public.
7 Even if you make this rule change, people will still want to
8 not take as much as they can because people will talk about
9 it. It will be everywhere. People will write about it.
10 Your opponent will use it against you.

11 But the reality is the more that we talk about the
12 structural barriers, the cultural barriers, how difficult it
13 is, the more we normalize it -- nobody used to talk about
14 being a mom and trying to manage children on the campaign
15 trail. Now we're talking about it because we need more moms
16 in Congress. We need more moms at all levels of government.

17 We have policies that are failing families in this
18 country because we don't have people with the lived
19 experience, and legislatures legislate on lived experience.
20 So, yes, that is a political reality, you will be attacked.
21 We have to do it anyway.

22 CHAIR LINDENBAUM: Commissioner Dickerson.

23 COMMISSIONER DICKERSON: Thank you. First of all,
24 I've been cautioned by one of my colleagues that I look
25 really grumpy. I actually just am working on three kids

1 under five. So I hear you. I'm not actually as grumpy as I
2 look. I'm just exhausted.

3 So, Ms. Shirley, you said something very
4 interesting, and I want to follow up on it because there have
5 been two things here that are very interesting to me that are
6 kind of unrelated to whatever final rule we were to adopt.

7 One is, Ms. Kurani, your point about not knowing
8 what the rules are and the sort of confusion about them,
9 which I will say is terrifying because you strike me as very
10 well informed. So I guess a general question to everyone,
11 regardless of what rule is adopted, what can the Commission
12 do, especially for first-time candidates, especially for the
13 less sophisticated or, you know, third party? I used to
14 represent the LMC, so I'm going to reject the title minor
15 party. But, you know, what can we do to publicize whatever
16 it is that we do end up adopting, one?

17 And two, I think it's a real cautionary tale, Ms.
18 Shirley, about, you know, people looking up where your
19 children are going to daycare. You know, I take the point on
20 transparency, but I wonder, you know -- and this is off the
21 cuff, this is not in any of the comments, it's not in the
22 NPRM, but to the extent any of you have views on what the
23 Commission could lawfully do to preserve the privacy of their
24 children, I would be interested in any thoughts.

1 MS. SHIRLEY: The candidate that I mentioned that
2 didn't want to put it down, she actually did not include the
3 name of her childcare center. And I remember sitting with
4 her and talking, and she was really worried that she was
5 going to get in trouble, and she didn't get in trouble.

6 So I think that is the best thing that you can do,
7 that you can put this is a childcare expenditure but not have
8 to put the location of your child's daycare center. It keeps
9 those children protected.

10 That particular candidate was running for Senate,
11 and her children, on Halloween, people drove by her house and
12 threw candy, not in a nice way, but threw candy at her
13 children, who were toddlers at the time. And she said this
14 has happened to my kids. She was very nervous to put the
15 location of her child's childcare center, and she didn't. So
16 talking about it is one of the best ways that you can help
17 normalizing it.

18 I remember leaving the Commission that day thinking
19 when we drove down here, I thought *Glamour* magazine was going
20 to cover it, and that was it. By the end of the day, every
21 press outlet in the country had covered it, and I was
22 genuinely shocked. I was outside with my children at a
23 museum while I was outside on the phone with reporters, and
24 everyone talked about it, and that's what we need to do. If

1 we're going to normalize it, the more people use campaign
2 funds for childcare, the more it will be just the norm.

3 Vote Mama Foundation publishes a report looking at
4 the expenditures of childcare, looking at who is spending
5 their campaign funds on childcare, moms and dads and
6 Democrats and Republicans, and it has gone up every single
7 election cycle since 2018, and making that something that we
8 talk about, that's how we're going to actually change it
9 because there is the stigma. Technically, you can use a
10 salary right now; you can take a salary. The rules are not
11 great around it, but no one wants to do it. They don't do it
12 because they will get politically attacked.

13 So the more of us who stay up here and stand up
14 here and tell our story, and you approve this ruling, and you
15 approved all of these proposed rule changes, and you talk
16 about it to the press, and you say this is how we get working
17 people into office, this is a change that would literally
18 change the political landscape, you are doing a huge service
19 to everyone in this country.

20 COMMISSIONER DICKERSON: Let me ask a more direct
21 question. I mean, part of the problem here is that this
22 whole conversation is taking place against an extremely
23 complicated and contested legal background, and we are bound
24 by law as a federal agency, and that's just hard. That's
25 just true. So my, I guess, more specific question is, you

1 know, especially to those of you who have thought about this,
2 and you've all been candidates, are there ways in which we
3 can try to preserve the privacy of things like daycare,
4 things like personal services in a way that would, as you
5 say, normalize these sort of things by lowering the personal
6 risk that's being taken on by candidates, or is that sort of
7 an ancillary kind of conversation?

8 MS. SHIRLEY: Specifically for childcare?

9 COMMISSIONER DICKERSON: That's your example, and
10 it seemed the most obvious.

11 MS. SHIRLEY: Yeah. I don't think there's anything
12 you can do if you have a babysitter or a nanny on your staff
13 because you're paying a direct person.

14 I do think there can be a rule change, and I don't
15 know the legal background behind this, but if you could have
16 a rule change that if you have a child in a childcare center,
17 you can just say this is how much money I spent on a
18 childcare expenditure without listing the name and the
19 address of that childcare center. If you can do that, that
20 would be immensely helpful.

21 SENATOR ISLAM: I agree with her. When you do your
22 expense report, there could be an exception to removing the
23 location of the childcare facility. I think that would be
24 great and for security reasons that we just heard about.

1 And also you asked earlier how can we inform
2 candidates about the rules. You know, I got lovely emails
3 from the FEC, automated ones, and so I think it would be
4 great if, once you file to run for office, you get an
5 automated email just listing out what all the rules are. And
6 so, I mean, I hired a compliance firm, so they walked me
7 through all those things, but I understand not everyone does
8 that. So, if you just want to make sure you're covering all
9 your bases, an automatic email would be great.

10 CHAIR LINDENBAUM: Commissioner Broussard.

11 COMMISSIONER BROUSSARD: Thank you, Madam Chair.
12 I've gotten warnings that I'm not close enough to the mic,
13 but it will only stretch so far. Okay.

14 So, in the previous panel, if you were here, there
15 were a lot of witnesses that testified that they thought the
16 cap at the minimum office-holder salary of 174 was the way to
17 go. So one of those arguments for that cap is, during a
18 campaign, while you as a challenger are struggling financial-
19 wise, that incumbent is still collecting a salary, a full
20 salary, full benefits and everything else.

21 So I want to see if you all can tell me in your
22 experience, what was that incumbent doing while you were
23 campaigning? Do you know what they were doing?

24 MS. KELLY: I can speak to that.

25 COMMISSIONER BROUSSARD: Okay. Go ahead.

1 MS. KELLY: I had two different incumbents due to
2 redistricting, and they were doing absolutely nothing. They
3 were both already rich. The person who is representing the
4 TN-7 is worth over \$30 million.

5 COMMISSIONER BROUSSARD: So let me lead this
6 question for you then. I'm going to fight this. Was that
7 incumbent also campaigning? They might not have been to your
8 satisfaction or your level of effort.

9 MS. KELLY: Okay. I was about to say I need some
10 clarity on what you mean by campaigning.

11 COMMISSIONER BROUSSARD: There you go. Were they
12 engaged in campaigning?

13 MS. KELLY: Did they open a office? Yes. Did they
14 have a campaign manager? Yes. You know, did they do any
15 debates? No. Did they spend 40 hours of call time like the
16 majority of us did just trying to make ends meet? No. None
17 of those things.

18 COMMISSIONER BROUSSARD: Anyone else's experience
19 what the incumbent was doing?

20 MS. SHIRLEY: I would like to answer this question.
21 My incumbent was writing spy novels, literally multiple spy
22 novels. And he wasn't holding town halls. In fact, I
23 organized a town hall for him, and he refused to show up.

24 And even before that, I had a protest, and I asked
25 for a meeting with him, and they told me to come in at 3:30

1 that day, and I got there, and they had locked the doors and
2 sent the staff home. And I had a very large protest in front
3 of his office, so he agreed to meet with me.

4 When I asked if he would hold a town hall, he told
5 me a town hall would only diminish democracy. That was his
6 exact quote, it would diminish democracy. He had been in
7 office since I was 12. He wasn't campaigning. He did not
8 need to campaign. He had not shown up to a debate in eight
9 years. When I ran against him, he showed up to five debates.

10 But he didn't have to campaign. He took a salary.
11 He didn't really introduce anything great in terms of
12 legislation. He was voting to defund Planned Parenthood 17
13 times. And he was writing spy novels.

14 I made him have to step up to campaign, but he
15 didn't have to do very much because everyone knew who he was.
16 So he was taking a salary and not killing himself. He wasn't
17 doing 40 hours of call time. He called a few donors that had
18 been his donors forever. We actually out-raised him.

19 When I first started, he had over \$3 million in his
20 war chest, \$3 million. I had no clue how I was going to
21 fight, but we out-raised him because we did the work and he
22 did not.

23 MS. KELLY: May I say one more thing? And this is
24 for Commissioner Dickerson. When I was working at FedEx,
25 there was an individual, a white, cisgender male, he was from

1 rural Tennessee. His brother was the first person in their
2 family to get into college. He got into Cal Poly Tech, I
3 believe, the MIT of the West Coast. But he didn't get a
4 scholarship. So him being a good big brother, he decided to
5 take a job, and one of his frustrations is that -- because we
6 were from different sides, I'm clearly a Democrat, he voted
7 Republican a lot, he was irritated because his understanding
8 is that his party took care of working-class people. He was
9 so frustrated that he wanted to run for office. He could not
10 run for office because he too was part of the working class.

11 So I just want to make sure that that's clear, that
12 when we talk about inequity, does it always impact people of
13 color? Absolutely. But this is a socioeconomic issue of
14 representation, you know, so asking us if we have the answers
15 to how to fix all of the legalities of this, we don't have
16 those answers, but what we are asking you to do is to take
17 special consideration that we are in trouble across this
18 country, and a big part of the reason why we're in trouble is
19 because we do not have accurate representation in the highest
20 levels of office.

21 CHAIR LINDENBAUM: It's very hard to follow that
22 up. Thank you. Commissioner Broussard?

23 COMMISSIONER BROUSSARD: I'm not --

24 CHAIR LINDENBAUM: I'm sorry. Commissioner
25 Weintraub.

1 COMMISSIONER WEINTRAUB: We look alike. It's okay.
2 I'm always honored to be mistaken for Commissioner Broussard.

3 One of the issues that I raised this morning
4 because of the legal constructs that we have to operate under
5 is the issue of corruption. Supreme Court tells us that that
6 has to be the fundamental principle that we follow in all of
7 our rulemaking, is that our mission is to prevent corruption,
8 and we can't really justify much regulation other than as an
9 effort to prevent corruption.

10 So, out of all your experiences, I would be
11 interested in hearing from you how you think the kinds of
12 rules that we've been talking about today would enhance our
13 ability to prevent corruption given, again, the very
14 pertinent question that the Chair raised earlier about the
15 concern about the potential for grifters. I would like you
16 to address it in, you know, a broader fashion if you could.

17 CHAIR LINDENBAUM: Mr. Hoh?

18 MR. HOH: You know, I don't know whether or not
19 there are instances of candidates using their earned income
20 as salary and then adjusting that or fabricating it or
21 exaggerating it to take more. I think what you're going to
22 have -- if you have, as is being recommended, you're going to
23 have a line entry on your reporting saying this was the
24 candidate's salary for the month, \$1,000, \$2500, \$6,000,
25 \$15,000, whatever, it will be very clear.

1 I think most of the corruption you've seen, and I'm
2 thinking of one member of Congress in particular, it was for
3 using campaign funds to take his girlfriend to a hotel for
4 the weekend and then expensing that as a campaign expense.

5 So I think there's a forensic nature required to
6 find this corruption that relies on looking into the
7 reporting, matching up days and times, seeing whether or not
8 the expenses that are being utilized are being utilized for
9 actual campaign expenses or for taking your mistress to a
10 hotel.

11 I think the fact that the straightforward payment
12 of a salary, the straightforward payment of healthcare
13 expenses, is clear, while the other expenses, I think, is
14 where you find the corruption. That's where you find the
15 graft. That's where you find the ability for people to
16 fabricate expenses or to make things up or to exaggerate or
17 to claim that this trip was a campaign trip when, in fact, it
18 was a pleasure trip.

19 So I don't really see the danger in -- you know, if
20 I was to be paid 3,000, 5,000, \$7,000 a month, whatever it
21 comes to for a candidate's salary, that's a clear straight
22 line item on my reporting that's very clear.

23 I really do think the danger of the corruption lies
24 in all the myriad receipts and expenditures that a campaign
25 goes through. Certainly, if I was going to be on the take,

1 that's how I would do it rather than doing something that's
2 so obvious and glaring.

3 CHAIR LINDENBAUM: Thank you. Ms. Islam?

4 SENATOR ISLAM: So I want to make sure that I'm
5 answering your question as well. So we have a transparency
6 mechanism in the sense that we do quarterly reports. So,
7 after you, you know, file for candidacy and you do your first
8 report, you would see how much you're taking in, you know,
9 how much money you've raised and how much salary benefits
10 you've been taking in.

11 This is extremely public. You know, if you wanted
12 to grift, this is not it. So I would say that people would
13 quickly find out if this is something that you were taking
14 advantage of and would discontinue to give you money, right?

15 And so I think that the reason that candidates who
16 end up raising more money is because -- what I'm trying to
17 say is, like, your ability to raise money is dependent on
18 whether or not you're running a good campaign, and people are
19 not going to give you money if they see you're clearly just
20 taking the money and paying yourself. So I don't think it
21 would be a lasting grift if someone were to even partake in
22 it.

23 MS. SHIRLEY: There's a lot of corruption among
24 current Congress members who are using insider information to
25 trade stocks and get wealthy. I actually think that there

1 can be an argument made that passing all of these proposed
2 rules could combat that corruption because the power of
3 incumbency is strong.

4 People who are in office for long periods of time
5 don't get a lot of challengers, and if they do, it's so
6 difficult for those people to actually prove that they have
7 the political willpower and the ability to raise the money to
8 take on somebody who has been in office for decades.

9 It will actually combat that corruption that
10 exists among electives because now more people will be able
11 to step up and run against that person. More people will
12 have the opportunity to run and to point out the corruption
13 that already exists among our current Congress members.

14 CHAIR LINDENBAUM: Ms. Kurani?

15 MS. KURANI: Thank you, Madam Chair. I think one
16 of the points that I wanted to make, I actually had written
17 it down from open secrets. In the past 20 years, the House
18 reelection rate is an average of 94 percent, right? So we
19 have a lot of people who just keep getting elected year after
20 year after year, and if we're talking about new candidates,
21 new people who are coming to the stage trying to actually
22 fight for real representation for their communities and we're
23 talking about gifting and corruption in those circumstances,
24 people who really want to do that are going to try to do it
25 anyways. But stopping real candidates who have to step away

1 from their jobs, who are doing call time, who are working 80
2 hours a week and not having an income to be able to support
3 themselves, that's not where the corruption is happening.

4 SENATOR ISLAM: Sorry, can I make a quick comment
5 to the question that Commissioner Broussard asked earlier
6 about what the incumbent was doing?

7 So I ran in an open seat; it was a six-way primary,
8 majority-minority district, working class community, and out
9 of the six, one of them was a millionaire. And I believed at
10 the time, and I still believe this, that the person that
11 actually reflected the shared lived experiences of that
12 community did not get elected, and instead, out of the six
13 candidates, it was the millionaire that was able to
14 successfully win the primary.

15 And so I just bring that up because it's important
16 that we have more economic diversity in Congress and we have
17 more people that run for office from working-class
18 backgrounds. And so these proposed rule changes and the ones
19 that I mentioned in my comments would make it easier for more
20 working people to run for office in the first place.

21 CHAIR LINDENBAUM: Thank you.

22 Commissioner Trainor?

23 COMMISSIONER TRAINOR: Thank you, Madam Chair. So
24 each of you ran for the House. I think I got that correct.
25 Ms. Islam, you ran for Senate?

1 SENATOR ISLAM: Yes.

2 COMMISSIONER TRAINOR: Okay. So one ran for
3 Senate. Did you all fill out -- you all filled out
4 disclosure forms to either the House or Senate Ethics with
5 regard to income that you currently make, which I think is a
6 good process, by the way. Do you feel comfortable with where
7 the current rules are right now that in order to take a
8 salary, you would have to turn over not just the disclosures
9 that you do to the Congress but turning over tax records that
10 could verify what your income is?

11 MS. KURANI: I am personally in favor of them. I
12 think it helps with accountability, with transparency, making
13 sure that there would be any potential offsets from other
14 earned income that would be able to be put into, for example,
15 if you were to go with a minimum office-holder salary.

16 So I think that process can be improved slightly
17 because it's all still a little bit complicated even as
18 someone from the financial industry and who, you know, works
19 in that sector. So I don't think it's necessarily the most
20 straightforward, and I can imagine for other candidates who
21 might not have that background that it would be even more
22 complicated.

23 That being said, if there was a straightforward way
24 to be able to share and to make your background a lot more

1 transparent, I think that's something that we're all very
2 much in support of.

3 COMMISSIONER TRAINOR: I know, Ms. Shirley, you
4 said that we may not necessarily want to look at just the
5 last year but maybe look at two or three years past. Would
6 you be comfortable with the Federal Election Commission
7 receiving your IRS documents and looking over your last three
8 years' tax returns?

9 MS. SHIRLEY: I have no problem. I think it's
10 great to be able to get that information. I don't think that
11 the salary should be based off of it, though.

12 I have no problem submitting tax documents, but you
13 could have been a stay-at-home mother for the last three
14 years. You could be raising children. You could have a
15 medical issue that didn't allow you to work. That shouldn't
16 preclude you from running for office and being able to
17 support yourself and your family while doing so.

18 COMMISSIONER TRAINOR: So what kind of
19 documentation do you think would be -- in that type of
20 situation, for that type of person, what would be the
21 appropriate type of information that we could ask for that
22 would allow us to just do some verifications and those type
23 of things?

24 MS. SHIRLEY: You still have to file your taxes, so
25 I think taking your tax documents is perfectly fine. I just

1 don't think that the ability to take a salary should be based
2 off of your income before. But, yes, you should absolutely
3 file your -- turn over your tax documents.

4 CHAIR LINDENBAUM: Yes. Commissioner Broussard?

5 COMMISSIONER BROUSSARD: One thing that we haven't
6 talked about among this panel is, if you lost the election,
7 should you still be able to for at least maybe 60 days be
8 able to continue to collect a salary for a wind-down period?
9 One, I want your thoughts on that. But were you still kind
10 of tying up the campaign after election day, and how long did
11 it take for you to kind of tie those nuts and bolts together
12 and everything? So what about that?

13 MS. KELLY: Thank you, Commissioner Broussard, for
14 asking that question. Yes. As an individual who ran for 19
15 total months getting to election day and a person who was
16 unsuccessful in winning my bid for Congress, yes, I was
17 tired. I was drained. I gave everything I possibly had, you
18 know, to show up well for those who wanted me as their
19 representative. It took me at least 60 days to even think
20 about how to even start tying, as you put it, those nuts and
21 bolts back together. So, absolutely, I'm in favor of that.

22 SENATOR ISLAM: I also wanted to add that I think
23 it would be -- look, I think it would be in theory, I think
24 it would be great if, let's say, you lose and you get 30, 60
25 days the ability to still draw a salary. But, at that point,

1 if you've run a competitive campaign, you don't have any
2 money left over. If anything, you're in debt. I mean, you
3 owe some vendors some checks here and there. So you can make
4 that -- that could be a rule and I think that would help some
5 people, but I don't think that a lot of people will actually
6 have any money left at that point.

7 CHAIR LINDENBAUM: Yes. Mr. Hoh?

8 MR. HOH: If I can go back to Commissioner
9 Trainor's comment about or question about the Senate Ethics
10 Committee, I wasn't aware I had to file with the Senate
11 Ethics Committee until late in the campaign, and because then
12 I didn't make the ballot, and I'm still uncertain whether or
13 not I missed a deadline or not since I wasn't on a ballot
14 until almost the end of August, by the time I sent the
15 information into the Senate, I never received a reply. So
16 just to let you know where I was with that.

17 But that goes to the overall issue that has been
18 spoken about before as a first-time candidate, as an
19 outsider, there's no checklist to go through to get yourself
20 started. And so you have rules for the FEC, you have rules
21 for the IRS, you have rules for the Senate, you have rules
22 for the House, and there's not one central point to go to
23 that clearly says what your requirements are for starting a
24 campaign, running a campaign.

1 It will tell you to go check with the Senate Ethics
2 Committee. The FEC will say on the website check with the
3 IRS, the IRS will say check with the FEC, and sometimes they
4 contradict each other. So I think that's one thing that can
5 be done better in terms of just articulating what the
6 requirements are, particularly for your first-time
7 candidates.

8 In terms of wind-down, yes, absolutely. I paid my
9 staff through the end of November. I mean, this is where I
10 think a lot of us who are candidates kind of see this as
11 being very hazy, right, as a candidate is somehow something
12 that is on a pedestal, that we are somehow above the point of
13 being paid, that we are principled, and that's why we're
14 running, as opposed to the staff, who are paid.

15 And meanwhile, you're doing as much work -- I don't
16 want to say that. My staff did a lot more work than I did,
17 but, you know, I mean, for most candidates, they're doing as
18 much work as their staff are, but somehow they're in a
19 different compartment, a different box, than the staff when
20 you are all running on the same campaign, and that
21 distinction, I think, is something that when you're running a
22 campaign, you really see why am I being treated differently
23 for this than the staff are.

24 So I think the wind-down part was something that, I
25 think, certainly, a salary should go through that, whether

1 it's 30 days, 60 days. You know, I would say through the end
2 of the calendar year is probably appropriate.

3 MS. KURANI: I'll just quickly add just from
4 personal experience you will have spent down your money in
5 most cases, so there's not actually going to be a lot of
6 campaign funds left.

7 That being said, I think for it to be allowed in
8 the rules to have those 30 to 60 days post the campaign for
9 candidates that win and lose, right? It's not just about us
10 in certain situations, but it's also the candidates that they
11 have won an election, might not be taking office until, you
12 know, potentially another calendar month or two. And so I do
13 think that it is beneficial to be able to sort of bridge that
14 gap.

15 We were specifically working for about 45 more days
16 after the election to wind down all the operations, to submit
17 our final reports, to put out press releases, to issue, you
18 know, statements on social media, things like that. So
19 things don't end on election day.

20 And I think it's important to consider the sort of
21 aftereffects of running for office. And that also means that
22 you can't start the next day with a new job, right? That's
23 also not how, you know, even getting a job works. And so
24 being able to support candidates who are from working-class
25 backgrounds to really push for representation I think is

1 something that I also almost want to pose as a question to
2 the Commission, as in what is the purpose of these new rules,
3 right? Is it to ensure a more fair and better democracy and
4 make sure that we have people from all walks of life that are
5 able to actually run? Is it to stop corruption? Who are we
6 really trying to support, and what are we trying to stop? So
7 it's a question that I wanted to pose.

8 SENATOR ISLAM: I wanted to just revisit the
9 comment I made earlier. Let's say if you lose, you are in a
10 hole afterwards financially. I mean, it's extremely hard to
11 get back up, and personally, I went through it, and I think
12 we all did here.

13 With that being said, if it's permissible to
14 continue to raise money 30 to 60 days after you lose your
15 campaign, that could be seen as, like, a debt retirement
16 where, if it's okay per the rules, that could be a way that
17 candidates could compensate themselves.

18 Now, if they are doing that, then I feel like, if
19 you're a candidate that has lost, you would have to be up
20 front with your donors saying that this is why I'm raising
21 this money because clearly you've already lost your campaign.
22 So that could be a form of relief until candidates can figure
23 out how to pick themselves back up after they lose.

24 And also to add onto, if you win your campaign, I
25 think that there is that gap period, and I saw Congressman

1 Frost talk about this, after he won, you know, he struggled
2 with employment and didn't have the income that he needed.
3 And so I think that you should be able to still draw a salary
4 until you're sworn in. Thank you.

5 MS. SHIRLEY: I would just like to echo what all of
6 my co-panelists said. We paid our staff until the end of
7 November, and we had \$10,000 left. If you run a successful
8 campaign, you are out of money by the time election day
9 happens.

10 I will tell you that I did not realize, this was
11 something I learned the last week of my campaign, that if you
12 go into debt, it's your personal debt, and I had no idea.
13 And my campaign manager made a mistake when she was looking
14 through the budget, and she said, oops, we need another
15 \$50,000 to get through the next day.

16 My husband started to do call time with us when we
17 both realized that that was it and we were going to be in
18 debt. And we sat and we did call time. And on GOTV weekend
19 when I wanted to be out knocking on doors, we did call time
20 to cover that debt. And then there was a little bit more
21 that we had to raise.

22 So I fully support anybody who wins being able to
23 continue to take a salary if there are funds left until they
24 actually start to take a salary. I also support, if you
25 lose, to be able to, but it's very difficult, and the people

1 who end up in debt right now, as Senator Islam said, you can
2 actually continue to raise funds to cover that campaign debt;
3 it's really difficult.

4 I've talked to so many candidates. You can't
5 continue to do it. I talked to a lot of people who have
6 ended up \$100,000 personally in debt. This is why we should
7 have publicly financed elections, but that's for a different
8 committee. But it's scary. It's a risk that you take if you
9 decide to run for office and your campaign spends more money
10 than you earned, you are on the hook personally.

11 CHAIR LINDENBAUM: I do just want to make an
12 important comment for anybody who is running for office that
13 circumstances are all different depending on how your
14 campaign takes on money. It is not always the case that your
15 campaign's debt is your personal debt. So there may be
16 certain circumstances where that may happen, but oftentimes
17 it is not. So talk to your lawyers, folks, or give the FEC a
18 call, and somebody can talk you through it.

19 But, with that, I think we're going to do one more
20 question. We're wrapping up here.

21 COMMISSIONER WEINTRAUB: Commissioner Dickerson
22 also had one last question.

23 This just goes to disclosure. I mean, I think
24 we've talked a lot about how all of this would be disclosed,
25 so my question is, do you think the current disclosure rules

1 are adequate for this, or should there be some special
2 disclosure if somebody is taking a salary from their campaign
3 to make sure that, you know, everybody's on notice that
4 that's where the money is going to be going or some of the
5 money is going to be going?

6 SENATOR ISLAM: I think the current disclosure
7 rules are sufficient. I mean, you can just go online and
8 look up the FEC expense report, and line by line you can just
9 see how much a candidate has taken for salary benefits, for
10 healthcare or childcare.

11 MS. KURANI: Yup. I would agree with Senator
12 Islam.

13 MS. SHIRLEY: Agreed as well.

14 CHAIR LINDENBAUM: Mr. Hoh?

15 MR. HOH: I think you make it clear on the
16 reporting it's a separate schedule, a separate box, if you
17 will. Very overt, very bright, put it in a different color
18 if you want. But this way it's out there, it's open. That I
19 think, as we were talking about before, reduces the chance
20 for corruption or graft or stealing, but make it very clear.

21 And the same with healthcare or childcare expense
22 as well. Find a way to redact that private information, but
23 you make it clear, it's overt. But then, by doing that,
24 you're normalizing it, right?

1 So many of us, my fellow panelists, talked about
2 the shame, the fear, the concern about taking a salary.
3 Normalize it. Make it out there. Make it clear. Make it
4 known that this is what people do when they run campaigns;
5 they get paid a salary. And by doing that, I think you're
6 further expanding the pool of people who will be willing to
7 come into and try and run for public office.

8 COMMISSIONER DICKERSON: Madam Chair, I think we
9 have two minutes. Let me see how much credibility I have for
10 short questions up here.

11 Just a quick question for Senator Islam. One of
12 the hardest things that we deal with on a technical level is
13 the interaction between state and federal law, and so
14 directing it to you as a state office holder, do you have any
15 practical concerns about how this would play for incumbent
16 office holders, whether it's state ethics rules and outside
17 income by state senators or any other part of the state law
18 that you have to deal with every day as a state Senator? Do
19 you have thoughts on the interaction there or a place you
20 would point us as a Commission for expertise on that point?

21 SENATOR ISLAM: I'm trying to understand your
22 question, so can you repeat it one more time?

23 COMMISSIONER DICKERSON: Sure. So imagine that we
24 pass a rule that says you can pay yourself a million dollars
25 a year, whatever you want to do. You can pay it whenever you

1 want. If you raise the money, you can spend it personally.
2 Imagine that's the rule. That won't be the rule, but imagine
3 that's the rule. Presumably ,as a state Senator, Georgia
4 state law is going to have something to say about that.

5 SENATOR ISLAM: I don't know why they would because
6 this rulemaking change is strictly for federal candidates.
7 So I don't think that Georgia law, state law, would --
8 because it's -- I want to make sure I'm also answering this
9 question correctly. Georgia state law is separate from the
10 federal laws. There are separate, you know, finance rules.
11 So I don't think -- they don't intermingle.

12 COMMISSIONER DICKERSON: Okay. Thank you.

13 CHAIR LINDENBAUM: Yeah. And I'm glad that
14 Commissioner Dickerson asked you that and didn't ask me
15 about Georgia law and the Georgia Ethics and Transparency
16 Commission, for which I could answer all of those questions
17 at another time. But, yes, you are certainly right there on
18 this that they're separate issues, but, of course, if you're
19 a state Senator in Georgia, you're going to have your own
20 ethics rule that may or may not apply, and as a state
21 Senator, it's your responsibility to know what outside
22 funding you can or cannot take.

23 So thank you for that. We can certainly talk about
24 the Georgia campaign finance law any day of the week.

1 So, with that, I really want to thank everybody. I
2 want to thank all of our panelists, this afternoon panel,
3 this morning panel, all of our staff. Thank you all from
4 everything from getting this NPRM in to putting this hearing
5 on. It is a ton of work, but we're thrilled to do it.

6 It's also really great to see some people in the
7 audience, and hopefully there are some people watching at
8 home. But the FEC is absolutely open for business, and we
9 are here, and we like when people interact with us.

10 So, as for the next steps, if you want to submit
11 supplemental information, this is open to everybody. So, if
12 anybody heard something here and they want to submit some
13 additional supplemental information to support the testimony
14 or anything else, you can do so for up to a week from now,
15 which is the close of business on Wednesday, March 29.

16 For all of our panelists, you can be on the lookout
17 for an email from the policy office with some instructions on
18 how you can provide some additional materials.

19 So, with that, again, thank you so much. Thank you
20 all for your experience, and we will now adjourn.

21 (Whereupon, at 3:30 p.m., the public hearing in the
22 above-entitled matter adjourned.)

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REPORTER'S CERTIFICATE

CASE TITLE: Public Hearing on Candidate Salaries
HEARING DATE: March 22, 2023
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Election Commission.

Date: March 22, 2023

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